

## **ACT ON THE ELECTRICITY MARKET**

### **I. GENERAL PROVISIONS**

#### **Subject Matter and Application of the Act**

##### **Article 1**

- (1) This Act defines the rules and measures for the secure and reliable generation, transmission, distribution and supply of electricity and trade in electricity and the organization of the electricity market as part of the European Union electricity market. It further establishes rules relating to the protection of final customers, organization and functioning of the electricity sector, an open market approach, establishment of general service obligations and rights of electricity customers, including final customer rights, separate accounting, financial statements, network access rules, mutuality rules, and cross-border transmission of electricity.
- (2) The provisions of the law defining the energy sector and regulation of energy activities shall apply to any relations not defined by this Act.
- (3) The provisions of the General Administrative Procedure Act shall apply to the procedures provided in this Act.

#### **The Application of Acquis Communautaire**

##### **Article 2**

This Act transfers the *acquis communautaire* of the European Union in the area of energy to the legislation of the Republic of Croatia, in particular Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L. 211/55, 14.8.2009), Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L. 140/16, 5.6.2009) and Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment.

#### **Definition of Terms**

##### **Article 3**

- (1) The terms used in this Act shall have the meaning determined by the act defining the energy sector and regulation of energy activities.
- (2) Other terms used in this Act shall have the following meaning:

1. balance group – a group comprising one or several participants in the electricity market, the deviation of which is a responsibility of the balance group leader,
2. transmission system operator certification – a procedure to determine its compliance with the provisions of this Act defining the unbundling and independence of transmission system operator,
3. certificate – a certificate issued after the certification procedure by the Croatian Energy Regulatory Agency (hereinafter referred to as the Agency) to certify that the transmission system operator meets the requirements with respect to its unbundling and independence, the financial, material, technical and staff equipment and other requirements laid down by this Act,
4. dispatching – the management of electricity flows and regulation of voltage in the electricity system, including its exchange with other systems,
5. electricity distribution – the transport of electricity on high-voltage, medium-voltage and low-voltage distribution networks with a view to its delivery to customers, not including supply,
6. economic precedence – the ranking of suppliers of electricity in accordance with economic criteria,
7. electricity undertaking – any legal or natural person carrying out at least one of the energy activities specified in Article 4 of this Act, which is responsible for the commercial, technical and maintenance tasks related to those activities, but does not include final customers,
8. balancing energy – electricity needed to cover the difference between the electricity actually delivered or taken over and the agreed amounts of electricity,
9. horizontally integrated undertaking – an undertaking performing at least one of the functions of generation for sale, or transmission, or distribution, or supply of electricity, and another non-electricity activity,
10. integrated electricity undertaking – a vertically or horizontally integrated undertaking,
11. delivery – the delivery of electricity at a particular delivery site,
12. direct line – either an electricity line linking an isolated generation site with an isolated customer or an electricity line linking an electricity producer and an electricity undertaking to supply the electricity directly to their own premises, subsidiaries and final customers,
13. electricity derivative - a financial instrument specified in items 5, 6 or 7 of Section C of Annex I to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments where that instrument relates to electricity, which has been transferred to the Croatian legal system under the Capital Market Act,
14. control –rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by ownership or the right to use all or part of the assets of an undertaking, and rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking,
15. network user – a legal or natural person using a transmission or distribution network or a cross-border line for delivery of electricity to the network or takeover of electricity from the network,
16. final customer – a customer purchasing electricity for his own use,
17. customer – a wholesale or final customer of electricity,

18. household customer – a customer purchasing electricity for his own household consumption, excluding commercial or professional activities,
19. non-household customer – a legal or natural person purchasing electricity which is not for his own household use and includes producers and wholesale customers,
20. wholesale customer – a legal or natural person purchasing electricity for the purpose of resale inside or outside the system where he is established,
21. electricity supply quality – the reliability of supply and the quality of voltage at the electricity takeover and delivery site and the quality of service provided to network users,
22. small customer – a legal or natural person having fewer than 50 employees and meeting one of the two criteria: his annual turnover does not exceed HRK 54 million or his assets do not exceed HRK 27 million, which purchases electricity for his own use,
23. minister – the minister in charge of energy,
24. Ministry – the Ministry in charge of energy,
25. advanced network – an electricity network that is able to integrate in a cost-effective manner the behaviour and activity of all connected network users to maintain an economically efficient and sustainable electricity system with low losses and high levels of electricity supply quality and security,
26. tendering procedure for generation facilities – the procedure through which planned additional requirements and replacement capacity are covered by supplies from new or existing generating facilities,
27. transmission system operator's nonstandard services – attributable services within the scope of transmission system operator's competence and responsibility, which are not included in the price for the use of the transmission network and the fee for connecting to the transmission network,
28. distribution system operator's nonstandard services – attributable services within the scope of distribution system operator's competence and responsibility, which are not included in the price for the use of the distribution network and the fee for connecting to the distribution network,
29. low voltage (LV) – voltage levels of up to and including 1000 V,
30. new infrastructure facilities – facilities not completed up to the effective date of this Act, which can be exempted from the applicability of the third party access principles,
31. renewable energy sources – renewable non-fossil energy sources (wind, solar, aerothermal, geothermal and hydrothermal energy, tidal energy, hydro-power, biomass, landfill gas, sewage treatment plant gas and biogases),
32. distribution system operator – a legal or natural person responsible for operating, ensuring the maintenance of, developing and construction of the distribution network in a given area and for ensuring the long-term ability of the network to meet reasonable demands for the distribution of electricity,
33. transmission system operator – a legal or natural person responsible for operating, ensuring the maintenance of, developing and construction of the transmission network in a given area and cross-border transmission lines to other networks, and for ensuring the long-term ability of the network to meet reasonable demands for the transmission of electricity,

34. electricity market operator – a legal person responsible for organizing the electricity market in accordance with the provisions of this Act,
35. electricity supply - the purchase of electricity and sale of electricity, including resale of electricity to final customers,
36. electricity supply as a public service – the purchase of electricity and sale of electricity under regulated conditions to those final customers who are entitled to such supply method or choose it freely or use it automatically, or the sale, including resale, of electricity to wholesale customers,
37. supplier – an electricity undertaking performing the electricity activity of electricity supply,
38. universal service customer supplier – a supplier providing the public service of electricity supply under regulated conditions to a final customer entitled to be supplied with such universal service or chooses or automatically uses such method of supply,
39. enterprise – any legal or natural person purchasing electricity to produce goods and/or provide service and not using it in his own household,
40. ancillary services – suppliable individual services procured by the transmission system operator from network users providing such services for the purpose of performing system services, under special contracts with such users,
41. ancillary distribution network services – suppliable individual services procured by the distribution system operator from network users providing such services for the purpose of performing distribution network services, under special contracts with such users,
42. energy authorization procedure – a procedure to meet the needs for greater power and replacement of generation facilities, on the basis of competent authority’s authorization,
43. related undertaking - affiliated undertakings, within the meaning of Article 41 of the Seventh Council Directive 83/349/EEC of 13 June 1983 based on Article 44(2)(g)(\*) of the Treaty on consolidated accounts, and/or associated undertakings, within the meaning of Article 33(1) of that Directive, and/or undertakings which belong to the same shareholders,
44. connection – a physical connection to the transmission network or distribution network, including metering equipment and the billing meter point, which is an integral part of the network,
45. electricity transmission – the transport of electricity using an interconnected extra-high and high-voltage transmission network for the purpose of delivering it to customer or the distribution system operator, not including supply,
46. network access – network user’s right to use the network for transmission, distribution, takeover and delivery of the agreed quantity of electricity during the agreed period, on the basis of prescribed and published terms according to the principles of impartiality,
47. electricity generation – the process of transforming fuel or energy from renewable energy sources into electricity,
48. electricity producer – an electricity undertaking performing electricity generation activities,
49. security of supply – providing sufficient amounts of electricity to final customers, and the ability of transmission and distribution networks to enable the delivery of such electricity to final customers,

50. medium-sized customer - a legal or natural person purchasing electricity for his own use, not a small customer, employing fewer than 250 people and meeting one of the two criteria: his annual turnover does not exceed HRK 216 million or his assets do not exceed HRK 108 million,
51. medium voltage (MV) – voltage levels from 1 kV up to and including 35 kV,
52. electricity market participant – an electricity undertaking and another legal or natural person established for the purchase and/or sale of electricity on the basis of his right to participate in the electricity market in accordance with this Act and the electricity market organization rules,
53. electricity trader – a legal or natural person purchasing and selling electricity, including the resale of electricity, to wholesale customers, not including the sale of electricity to final customers,
54. electricity trade – the purchase and sale of electricity, including the resale of electricity, to wholesale customers, not including the sale of electricity to final customer,
55. final customer supply contract – a contract defining the supply of a final customer with electricity, not including electricity derivative,
56. vulnerable customer – an household customer who is as a result of his social position and/or health status entitled to use the network and/or be supplied with electricity under special conditions,
57. universal service – a unique method of selling electricity within supply performed as a public service, ensuring the household customer's right to the public service of supplying electricity of required quality across the territory of the Republic of Croatia at reasonable, clearly comparable and transparent prices,
58. system services – the electricity system services necessary for the operation of the transmission and distribution systems, including electricity system operation, frequency and voltage balancing and re-establishment of supply, ensured by the transmission system operator,
59. large non-household customer – a non-household customer whose consumption of electricity exceeds the amount determined by the Agency on the basis of an analysis of electricity market functioning, whereby he is entitled to contract several electricity suppliers at the same time,
60. vertically integrated undertaking - an electricity undertaking or a group of electricity undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform at least one of the energy activities of transmission or distribution, and at least one of the activities of generation or supply of electricity,
61. high voltage (HV) – voltage levels from 35 kV up to and including 220 kV,
62. high-efficiency cogeneration – cogeneration based on consumption of useful heat and saving of primary energy,
63. balance group leader – an electricity market participant responsible for the deviation of a balance group, which has an energy balancing contract in place with the electricity market operator,
64. extra high voltage (EHV) – voltage levels in excess of 220 kV,

65. guaranteed supplier – a supplier providing the public service of electricity supply under regulated conditions to a final customer who is left without a supplier under certain conditions.

## **Energy Activities**

### **Article 4**

(1) Within the meaning of this Act, energy activities (hereinafter referred to as the electricity activities) are:

1. generation of electricity,
2. transmission of electricity,
3. distribution of electricity,
4. organization of the electricity market,
5. supply of electricity,
6. trade in electricity.

(2) Within the meaning of this Act, energy activities are performed as public services and as market activities.

(3) Legal and natural persons may only perform the electricity activities specified in paragraph 1 of this Article on the basis of a resolution permitting them to perform such activities (hereinafter referred to as the license) in accordance with the law defining the energy sector, unless otherwise required by this Act.

## **The Interest of the Republic of Croatia**

### **Article 5**

(1) Secure supply of electricity shall be considered an essential element of public security and includes, within the meaning of this Act, the following:

- secure supply of electricity, and
- technical security of the generation, transmission, distribution and consumption of electricity.

(2) Securing sufficient generation and delivery of electricity necessary for citizens' living and work and for the operation and development of business and social entities and their supply with electricity in a secure, reliable and effective manner with adequate quality, at reasonable prices, and energy development, are of interest to the Republic of Croatia.

(3) The electricity activities specified in Article 4, paragraph 1, items 2 to 4 of this Act shall be performed as public services. The electricity activity specified in Article 4, paragraph 1, item 5 of this Act shall be performed as a public service in the part and in the manner required by this Act.

(4) To maintain the security of electricity supply electricity undertakings performing any of the electricity activities specified in paragraph 3 of this Article shall, for the purpose of pursuing the interests of the Republic of Croatia specified in paragraph 2 of this Article, make it their priority to secure sufficient amounts of electricity necessary for citizens' living and

work and for the operation and development of business and social entities and their supply with electricity in a secure, reliable and effective manner, at reasonable prices, subject to fulfilment of economic criteria for delivery.

(5) The Government of the Republic of Croatia shall define by its decision the electricity undertakings which shall be obliged in accordance with the provisions of this Act to provide the public service of electricity supply on the territory of the Republic of Croatia, which service shall be performed as a universal service, and the service of electricity supply performed as a guaranteed service (hereinafter referred to as public service electricity supply).

(6) The electricity undertaking specified in paragraph 5 of this Article shall also trade in electricity for public service electricity supply purposes.

(7) The electricity undertakings specified in paragraph 5 of this Article shall create the necessary conditions for regular and secure supply of final customers by purchasing such electricity from producers, traders or other suppliers on the organized electricity market or shall import it, provided that electricity generated from renewable sources or cogeneration shall have precedence.

(8) If the electricity undertakings specified in paragraph 5 of this Article fail to secure the necessary conditions for regular and secure supply of final customers as required by paragraph 7 of this Article, they shall purchase such electricity from producers, traders or other suppliers on whom the Government of the Republic of Croatia imposes the obligation of selling electricity to an electricity undertaking for public service electricity supply purposes.

(9) When purchasing electricity for public service electricity supply purposes, the electricity undertakings specified in paragraph 5 of this Article shall use the best business practices and take measures to achieve the best prices for their final customers.

(10) It is in the interest of the Republic of Croatia to impose such obligation to give precedence to purchasing electricity from renewable sources or cogeneration on all electricity undertakings licensed in accordance with Article 4, paragraph 1, item 5.

## **II. PERFORMING ACTIVITIES**

### **Public Services**

#### **Article 6**

(1) The electricity undertakings performing the electricity activities specified in Article 4, paragraph 1, items 2 to 4, and Article 5, paragraph 5 of this Act shall, subject to the requirements of the license to perform electricity activities, ensure:

1. security of electricity supply,
2. required or agreed quality of electricity supply,
3. a proposal for the amounts of tariff items determined according to regulated conditions,
4. the use of primary energy sources,
5. environmental protection,
6. protection of citizens' health, lives and property, and

7. measures to protect final customers.

(2) Public services shall be provided in an impartial, transparent and easily verifiable manner.

(3) The Government of the Republic of Croatia shall notify the European Commission of all measures imposed with respect to the public service obligation, including the protection of final customers and environmental protection and their potential impact on competition in the Republic of Croatia or abroad. The Government of the Republic of Croatia shall notify the European Commission of any changes to such measures every two years.

(4) The Agency shall consult the representatives of consumer protection organizations with regard to the decision about the amount of the tariff items for the respective electricity activities performed as public services.

## **Market Activities**

### **Article 7**

(1) Electricity activities not defined as public services in this Act shall be performed as market services according to the rules defining the market relations, where the amounts and price of electricity to be delivered shall be freely agreed and/or contracted.

(2) Activities on the electricity market shall be performed and organized in accordance with the objectives of development of electricity activities and the needs of final customers in the Republic of Croatia, for the purpose of achieving secure and reliable electricity supply of adequate quality, subject to compliance with the competition and legal equality principles.

## **Construction and Use of Buildings**

### **Article 8**

Buildings for generation of electricity (hereinafter referred to as the generation facilities) and for transmission and distribution of electricity shall be constructed and used in accordance with the physical planning and construction regulations, regulations regulating the energy sector, regulations regulating the environmental protection and special technical and safety regulations.

## **Confidentiality**

### **Article 9**

The transmission system operator, the distribution system operator, the electricity market operator, the supplier, the trader, the producer and the Agency shall ensure confidentiality of confidential business information disclosed to them by other electricity undertakings and final customers, unless they are authorized or required to publish such information or disclose it to competent state authorities under the provisions of this Act or other special laws and regulations.

## **III. GENERATION OF ELECTRICITY**



## **Generation of Electricity**

### **Article 10**

(1) An electricity producer licensed to generate electricity may generate electricity in a basic or variable operating mode, including electricity to cover losses in the transmission and distribution networks and electricity to balance the electricity system (hereinafter referred to as balancing energy) and provide ancillary services.

(2) As an exception to Article 4, paragraph 3 of this Act, legal or natural persons may perform electricity generation activities without a license for electricity activities if they have provided for professional management and operation of their energy facilities in accordance with the technical regulations, requirements and conditions and solely for:

- generation of electricity using generation facilities having an aggregate power of up to and including 1 MW, or
- generation of electricity solely for their own needs, or
- generation of electricity during the commissioning of generation facilities.

(3) An electricity producer shall be entitled to:

1. use in his generation facilities energy sources he considers to be the best for transformation, subject to compliance with the prescribed requirements,
2. sell his own generated electricity subject to the provisions of this Act and other regulations, especially the rules for electricity market organization,
3. provide ancillary services and balancing services subject to the requirements provided in this Act and other regulations, especially the rules for electricity market organization,
4. contract the purchase of electricity for his own generation of electricity and provision of services subject to the requirements provided in this Act and other regulations, especially the rules for electricity market organization,
5. access the network and use the transmission and distribution networks according to the prescribed requirements, and
6. account for and collect funds he is entitled to pursuant to contracts and other sales entered into and effected in accordance with the provisions of this Act.

(4) An electricity producer shall:

1. permanently meet all requirements under the electricity generation license, if such license is required for his activities,
2. comply with all technical and operating requirements, especially the requirements provided in transmission system grid code and distribution system grid code, or required by technical and other regulations and standards,
3. comply with the prescribed requirements pertaining to energy efficiency and environmental protection,
4. act in accordance with the competition rules when participating in the electricity market, including the prohibition of unjustified withdrawal of generation capacities and the prohibition of unjustified reduction of electricity generation,

5. maintain his generation facilities in a proper working order, ensure their operating readiness and safe use in accordance with the technical and other regulations and standards, subject to formal audits,
6. offer ancillary services for system services to the transmission system operator on the basis of the market principles, in accordance with his technical abilities and transmission system Grid Code, the distribution system Grid Code, and the electricity market organization rules,
7. enter into contracts for the provision of ancillary services with the transmission system operator to provide system services determining the provision, use and charging for such services and other conditions and deadlines with respect to such services,
8. offer ancillary services for the provision of services in the distribution network services to the distribution system operator on the basis of the market principles, in accordance with his technical abilities and transmission system grid code, the distribution system Grid Code, and the electricity market organization rules,
9. enter into contracts for the provision of ancillary services with the distribution system operator to provide distribution network services determining the provision, use and charging for such services and other conditions and deadlines with respect to such services,
10. offer to the transmission system operator his available generation capacity on the basis of the market principles to enable secure operation and management of the electricity system,
11. offer to the electricity market operator his available generation capacity on the basis of the electricity market organization rules for balancing purposes,
12. enter into a contract for the provision of balancing services with the electricity market operator according to the electricity market organization rules,
13. put his generation facilities into operation at request of the transmission system operator or the distribution system operator for the purpose of providing ancillary services or ancillary services for the distribution network and to provide balancing services,
14. make available to the transmission system operator or distribution system operator the information necessary for the operation and management of the electricity system for each generation facility,
15. make available to the electricity market operator, the Ministry and the Agency the information necessary to balance the generation of electricity for each generation facility,

(5) Based on the producer's duty referred to in paragraph 4 of this Article, the Agency shall carry out supervision and other activities for the purpose of ensuring the implementation of the competition principles.

(6) For areas where generation facilities are located, the electricity undertakings owning such facilities shall pay a fee to local self-government units competent for the area where such facilities are located. The Government of the Republic of Croatia shall prescribe by its decision the amount of such fees for the use of such areas, how it should be allocated and how such funds may be used.

(7) An electricity producer is required to prepare and appropriately publish his program of measures for the improvement of energy efficiency and an annual report about the results of its implementation.

(8) If it determines that additional requirements for improvement of energy efficiency in generation should be laid down, the Ministry may prescribe in its decision a minimum level of efficiency of the respective technologies to be met when building a new or reconstructing an existing generation facility.

(9) Power plants connected to the transmission network and power plants connected to the distribution network which are significant for the operation of the electricity system shall be technically equipped to provide ancillary services at transmission system operator's request in accordance with the transmission system Grid Code and the distribution system Grid Code.

(10) Power plants connected to the distribution network which are significant for the provision of services in the distribution network shall be equipped for the provision of ancillary services for the distribution network at distribution system operator's request in accordance with the distribution system Grid Code.

(11) An electricity producer whose generation facilities are technically equipped to provide ancillary services in accordance with the transmission system Grid Code shall, if possible, offer ancillary services at request of the transmission system operator, under regulated conditions pending the establishment of the conditions of a functional electricity market in accordance with Article 28, paragraph 7 of this Act.

## **Generation of Electricity from Renewable Energy Sources and Cogeneration**

### **Article 11**

(1) An electricity undertaking or another legal or natural person generating electricity and heat at the same time in a single generation facility in a highly efficient manner or uses waste or renewable energy sources for the generation of electricity in an economically appropriate and environmental acceptable manner may, regardless of the power of his generation plant, acquire the status of an eligible producer of electricity.

(2) Such eligible producer status is acquired on the basis of a decision issued by the Agency in accordance with the requirements laid down by the minister in a relevant ordinance.

(3) Before acquiring the eligible producer status, an electricity undertaking or another legal or natural person referred to in paragraph 1 of this Article shall obtain from the Agency a prior decision on the acquisition of such eligible producer status, in accordance with the requirements laid down in the ordinance referred to in paragraph 2 of this Article.

(4) Eligible producers may become entitled to an incentive price determined by using the tariff system for the generation of electricity from renewable sources and cogeneration.

(5) The Government of the Republic of Croatia shall determine by its regulation a fee for stimulating the generation of electricity from renewable sources and cogeneration, which shall be collected by the electricity market operator from final customer suppliers, including those final customer suppliers who supply electricity on a public service basis.

(6) The allocation of funds collected as fees referred to in paragraph 5 of this Article shall be defined by a special regulation.

(7) The transmission system operator or the distribution system operator shall, in accordance with the requirements of operating reliability and security, ensure and control the takeover of

the aggregate amount of generated electricity from eligible producers subject to the conditions determined by special regulations, especially the transmission system Grid Code and the distribution system Grid Code.

(8) To fulfil the obligations of the Republic of Croatia in connection with the amounts of electricity generated from renewable sources and cogeneration, the electricity market operator shall have precedence in purchasing electricity from renewable sources and cogeneration from an eligible producer who is within the incentive system for a period of 25 years.

(9) As an exception to paragraph 2 of this Article, in case of generation of electricity from renewable sources and cogeneration in simple buildings determined by physical planning and construction regulations, the eligible producer status shall be awarded under the conditions laid down in the ordinance referred to in paragraph 2 of this Article and the provisions of paragraph 3 of this Article shall not apply.

(10) Eligible producers of electricity from renewable sources and cogeneration shall have equal rights and obligations with respect to delivery of electricity to the network and generation planning, regardless of whether they are within the incentive system or not.

(11) Guarantees of origin may not be issued for electricity generated from reversible hydro power plants to the extent such generation is a result of such power plant's pumped storage operation. The generation of electricity shall be balanced on the basis of the technical parameters for such hydro power plant.

## **Energy Authorization for a New Generation Facility**

### **Article 12**

(1) Generation facilities may be built by legal or natural persons, provided that the generation facilities they intend to build comply with the criteria determined in the energy authorization procedure.

(2) The criteria for the energy authorization procedure for the construction generation facilities shall be public and based on the principles of objectivity, transparency and impartiality in order to ensure:

1. reliability and security of the electricity system,
2. competitiveness of generation facilities,
3. protection of public health and safety,
4. environmental protection criteria and permanent control of environmental impacts,
5. appropriate use of land and sites,
6. appropriate use of public land,
7. energy efficiency,
8. a certain type of primary energy,
9. technical, economic and financial ability of applicants,
10. compliance with the measures taken with respect to the public service obligations and protection of final customers,
11. contribution of the generation capacity to the achievement of the overall target share of energy from renewable sources and energy efficiency in gross final energy

consumption in 2020 in the European Union, within the scope of fulfilment of the international obligations of the Republic of Croatia in the area of energy and in accordance with the regulations constituting *acquis communautaire*, and

12. contribution of the generation capacity to the relative reduction of emissions.

(3) Subject to prior opinion from the Agency, the minister shall lay down an ordinance to define the applicability of the criteria referred to in paragraph 2 of this Article to energy authorizations to be issued to small decentralized and/or distributed generation facilities and to energy authorizations to be issued for the construction of generation facilities.

(4) At request of a party, the Ministry may issue an energy authorization if the conditions and criteria laid down in the ordinance referred to in paragraph 3 of this Article have been met.

(5) No complaints may be filed against the decision referred to in paragraph 4 of this Article; however, an administrative dispute may be initiated before the competent administrative court. Such procedure before the administrative court shall be an urgent one.

(6) As an exception to paragraph 1 of this Article, no energy authorization needs to be issued in case of generation of electricity from renewable sources and cogeneration in simple buildings determined by the physical planning and construction regulations applicable to the construction of or works carried out on such buildings.

## **Tendering Procedure for a New Generation Facility**

### **Article 13**

(1) If the construction of generation facilities pursuant to the resolution referred to in Article 12 of this Act is not sufficient even where energy efficiency and consumption control improvement measures are taken, the following decision may be made in the interest of electricity supply through a tendering or another procedure equal to a tendering procedure with regard to transparency and impartiality:

- to build a new generation facility, or
- to take measures to improve energy efficiency and/or consumption control.

(2) Based on a proposal from the Ministry, the Government of the Republic of Croatia shall pass its decision to launch a tendering procedure and select the most eligible tenderer for the construction of generation facilities.

(3) Before providing its proposal referred to in paragraph 2 of this Article to the Government of the Republic of Croatia, the Ministry shall obtain opinions from the Agency, the competent ministry of physical planning and construction, and the competent ministry of environmental protection.

(4) The tendering referred to in paragraph 1 of this Article should specify:

1. the location where the generation facility is to be built,
2. the type of primary energy i.e. energy-generating product,
3. the method and conditions of generation and takeover of electricity,
4. the conditions relevant to the end of operation of the generation facility,
5. the conditions relevant to the environmental protection and protection of public health,
6. the required energy efficiency,

7. the incentive and subsidy measures for the respective generation facilities,
8. the criteria for the issuance of energy authorization for the construction of generation facilities, and
9. the conditions of using common and public domains.

(5) The minister shall prescribe in an ordinance the method of launching such tendering procedures, the conditions of tendering for the construction of generation facilities in accordance with paragraph 1 of this Article, a detailed description of the contractual provisions and the procedures to be complied with by all tenderers, and a list of criteria for the selection of the most eligible tenderer. The tendering procedure, the participation requirements and the selection standards must be transparent and impartial.

(6) The Ministry shall be responsible for organizing and implementing the tendering procedure provided in paragraph 1 of this Article.

(7) A tendering procedure for the construction of generation facilities shall be published in the Official Gazette and in the Official Journal of the European Union in accordance with the international obligations assumed by the Republic of Croatia.

(8) The deadline for the submission of tenders should not be less than six or exceed twelve months.

#### **IV. TRANSMISSION OF ELECTRICITY**

##### **Unbundling of Transmission System and the Transmission System Operator**

###### **Article 14**

(1) The transmission system operator shall be organized as an autonomous legal entity outside the structure of the vertically integrated undertaking, independent of other activities within the electricity sector and in compliance with the principles and requirements defined by the provisions of this Act.

(2) The transmission network owner shall act as the transmission system operator.

(3) To ensure the independence of the transmission system operator, one and the same person or persons cannot at the same time:

1. Directly or indirectly exercise control over the electricity undertaking performing one of the activities of electricity generation or electricity supply and directly or indirectly exercise control or exercise any other rights over the transmission system operator or the transmission network,

2. Directly or indirectly exercise control over the transmission system operator or the transmission network and directly or indirectly exercise control or exercise any other rights over the electricity undertaking performing one of the activities of electricity generation or electricity supply,

3. Appoint the members of the Supervisory Board, members of the Management Board or any other body representing the electricity undertaking in case of the transmission system operator or the transmission network and directly or indirectly exercise control or exercise any other rights over the electricity undertaking performing any of the activities of electricity generation or electricity supply and

4. Be a member of the Supervisory Board, Management Board or any other body representing the electricity undertaking performing any of the activities of electricity generation or electricity supply and the transmission system operator or the transmission network.
- (4) The bans from paragraph 3 of this Article shall especially apply to:
  1. Use of voting right,
  2. The right to appoint the members of the Supervisory Board, members of the Management Board or any other body representing the legal entity or
  3. Possession of the majority voting interest.
- (5) The obligation from paragraph 2 shall be considered executed when two or more owners of transmission networks have established a joint venture acting as the transmission system operator in two or more countries. No other undertaking can take part in the joint venture, with the exception of the undertaking certified as the independent system operator pursuant to Article 15 of this Act or as the independent transmission system operator pursuant to Article 18 of this Act.
- (6) If the person or persons from paragraph 3 of this Article is a government authority or other public administration authority, two separate public administration authorities exercising control over the transmission system operator or the transmission network on one side and the electricity undertaking performing one of the activities of electricity generation or electricity supply on the other side cannot be the same person or persons.
- (7) Certification of the transmission system operator as complying with the ownership unbundling requirements shall be performed by the Agency under the conditions and in the manner prescribed herein.
- (8) Commercially sensitive information available to the transmission system operator which has previously been a part of the vertically integrated undertaking or to its employees shall not be disclosed to the electricity undertakings performing any of the activities of electricity generation or electricity supply.
- (9) Subject to prior approval of the Agency, the transmission system operator shall establish a programme of measures in order to ensure implementation of the principles and requirements of its independence and the data confidentiality, which shall also include special employee obligations.

### **Conditions for Appointing the Independent System Operator**

#### **Article 15**

- (1) Without prejudice to the provisions of Article 14 of this Act, at the proposal of the transmission network owner or the Agency, the Agency is entitled to make a decision to appoint an independent system operator.
- (2) Certification of the independent system operator shall be performed by the Agency, under the conditions and in the manner prescribed herein.
- (3) The independent system operator can be appointed only if the following conditions have been fulfilled:
  1. The proposed operator meets the requirements under Article 14, paragraph 3 of this Act,

2. The proposed operator has at its disposal the financial, material, technical and human resources necessary for execution of its duties,
  3. The proposed operator has undertaken to comply with the ten-year plan of the transmission network development supervised by the Agency,
  4. The proposed operator has demonstrated its ability to execute the obligations defined by the Regulation (EU) No. 714/2009 and the ability to establish cooperation with the transmission system operators on the regional and European level and
  5. The transmission network owner has demonstrated its ability to execute the obligations under Article 16, paragraph 2 of this Act. To that end, the Agency has been delivered all draft agreements with the proposed operator or any other competent undertaking.
- (4) The independent system operator is entitled to lodge an appeal with the Agency against the decision from paragraph 1 of this Article.

## **Obligations of the Independent System Operator and the Transmission Network Owner**

### **Article 16**

- (1) The independent system operator shall be obligatory to :
  1. Approve and manage the network access and the transmission network use, including collection of payments charged for the network use, overload and payments according to the mechanism of settlement among the transmission system operators, pursuant to the Regulation (EU) No. 714/2009,
  2. Manage the electricity system and develop the transmission network,
  3. Secure long term ability of the transmission network to meet reasonable requests through investment planning, and
  4. Plan (including the approval procedure), constructg and put into operation new transmission network facilities. To that end, the independent system operator performs the function of the transmission system operator pursuant to the provisions under Articles 14 to 35 of this Act.
- (2) The owner of the transmission network managed by the independent system operator shall be obliged to:
  1. Secure appropriate cooperation and support to the independent system operator with execution of its obligations, especially regarding all important information,
  2. Finance the investments decided upon by the independent system operator and approved by the Agency or grant its consent to finance the investments by an interested party including the independent system operator. Such financial arrangements shall be approved by the Agency. Prior to issuing the approval, the Agency shall undertake consultation with the transmission network owner and other interested parties. Should the Agency not issue their approval, such financial arrangement cannot be implemented,



3. Secure fulfilment of obligations and responsibilities referring to the basic network assets, with the exception of responsibilities referring to the duties of the independent system operator and
  4. Provide guarantees to facilitate financing the transmission network expansion, with the exception of those investments whose financing by an interested party, including the independent system operator, has been approved pursuant to item 2 of this paragraph.
- (3) The owner of the transmission network managed by the independent system operator shall neither be responsible for approving and managing the network access and the transmission network use, nor for the investment planning.

## **Independency of the Transmission Network Owner**

### **Article 17**

- (1) If an independent system operator has been appointed, the transmission network owner which is a component part of the structure of the vertically integrated undertaking has to be independent at least in terms of its legal form, structure and decision making and independent from all other activities which are not related to the electricity transmission.
- (2) To ensure the independence of the transmission network owner from paragraph 1 of this Article the following shall apply:
  1. persons responsible for managing the transmission network owner shall not participate in the managing structures of the vertically integrated undertaking which are, directly or indirectly, responsible for daily operation of electricity generation, electricity distribution and electricity supply,
  2. appropriate measures shall be undertaken in order to take into account the professional interests of persons responsible for managing the transmission network owner in the manner ensuring their independent action,
  3. the transmission network owner shall adopt and monitor and supervise implementation of the programme of measures excluding the possibility of biased actions and determining special employee obligations related to accomplishment of the programme targets (the compliance programme). The person or body authorized for the compliance programme supervision shall deliver to the Agency the annual report on undertaken measures, which the Agency and the transmission network owner shall publicly announce in an appropriate manner, and
  4. to protect the security of the post of the person responsible for the compliance programme monitoring employed with the transmission system operator, the provisions of the Act regulating the protection of the Union representative shall be applied in the appropriate manner.

## **Conditions for Appointing the Independent Transmission System Operator – Assets, Equipment, Human Resources and Identity**

### **Article 18**

- (1) Without prejudice to the provisions under Article 14 of this Act, at the proposal of the transmission network owner, the Agency is entitled to make a decision to appoint an independent transmission system operator.

(2) Certification of the independent transmission system operator shall be performed by the Agency, under the conditions and in the manner prescribed herein.

(3) The independent transmission system operator shall have at its disposal all financial, technical, material and human resources necessary for execution of its duties and performance of the electricity transmission activity, while the following conditions shall be fulfilled in particular:

1. The independent transmission system operator shall be the owner of the assets necessary for performing the transmission activity, which means the owner of the transmission network and the accompanying assets necessary for managing the electricity system, operation, maintenance, development planning, network construction and representation of the Republic of Croatia in international organizations and institutions of the electricity transmission area,
2. The independent transmission system operator shall employ all personnel necessary for performing the electricity transmission activity, including performing all corporate tasks,
3. Dispatching of personnel and rendering of services, to and from any other company which is a part of the vertically integrated undertaking shall be prohibited. The independent transmission system operator may, however, render services to the vertically integrated undertaking as long as:
  - the provision of those services does not discriminate the network users, is available to all network users on the same terms and conditions and does not restrict, distort or prevent market competition in electricity generation or supply, and
  - the terms and conditions of the provision of those services are approved by the Agency.
4. Without prejudice to the decisions of the Supervisory Board under Article 21 of this Act, appropriate financial resources for future investment projects and/or for the replacement of existing assets necessary for performance of the electricity transmission activity shall be made available to the independent transmission system operator in due time by the vertically integrated undertaking following a request from the independent transmission system operator.

(4) Subsidiaries of the vertically integrated undertaking performing activities of the electricity generation or supply shall not have any direct or indirect shareholding in the independent transmission system operator. The independent transmission system operator shall neither have any direct or indirect shareholding in any subsidiary of the vertically integrated undertaking performing activities of electricity generation or supply, nor receive dividends or any other financial benefit from that subsidiary.

(5) The overall management structure and the internal statutes of the independent transmission system operator shall ensure effective independence of the transmission system operator. The vertically integrated undertaking shall not determine, directly or indirectly, the activities of the independent transmission system operator necessary for the preparation of the ten-year transmission network development plan developed pursuant to Article 25 of this Act or the competitive behaviour of the independent transmission system operator in relation to the day to day activities of the transmission and management of the network.

(6) The independent transmission system operator shall, in its special corporate identity, communication, brand name and premises, be clearly distinguished from the parent company

within the system of the vertically integrated undertaking and shall not create confusion in respect of the identity of the vertically integrated undertaking or any part thereof. To that end, the independent transmission system operator shall use only the marks, graphics, names, letters, numbers, forms and illustrations which are appropriate for distinguishing the activities or services of the independent transmission system operator from those performed or provided by the vertically integrated undertaking.

(7) The independent transmission system operator shall not share IT systems or equipment, business premises and security access systems with any part of the vertically integrated undertaking nor use the services of the same consultants or external contractors for IT systems or equipment or the security access systems.

(8) The independent transmission system operator shall provide guarantee that, as it regards the IT equipment and the access control system, it does not cooperate with the same consultants and external contractors as the vertically integrated undertaking.

(9) The accounts of the independent transmission system operator shall be audited by an auditor other than the one auditing the accounts of the vertically integrated undertaking or any part thereof. In relation to the activities of consolidation of accounts of the vertically integrated undertaking or for other substantial reasons which have to be previously disclosed to the Agency, the auditor is entitled to have insight into the parts of the accounting of the independent transmission system operator provided that the Agency has no objections regarding preservation of independence of the independent transmission system operator. Such auditor shall treat the commercially sensitive data and information in a confidential manner and shall not share them with the vertically integrated undertaking in particular.

(10) The independent transmission system operator shall perform the following tasks in addition to those listed in Articles 28, 29 and 30 of this Act:

1. the representation of the transmission system operator and communication with third parties and the regulatory authorities,
2. the representation of the transmission system operator in international organizations and institutions of the electricity transmission area,
3. granting and managing access to the transmission network and use of the transmission network on a non-discriminatory basis between the network users or classes of network users,
4. the collection of the electricity transmission system related fees based on the decision and methodology adopted by the Agency,
5. the operation of the electricity system and the maintenance, development and construction of a secure, efficient and economic transmission network,
6. investment planning ensuring the long-term ability of the transmission network to meet reasonable consumption demand and guaranteeing security of supply and
7. the setting up of joint ventures, including with one or more transmission system operators, electricity market operator, power exchanges and the other relevant actors pursuing the objectives to develop and create regional markets or to facilitate the liberalisation process.

(11) The independent system operator is entitled to lodge an appeal with the Agency against the decision from paragraph 1 of this Article.

### **Independence of the Transmission System Operator**

## **Article 19**

(1) Without prejudice to the decisions of the Supervisory Board under Article 21 of this Act, the independent transmission system operator shall have the effective decision-making rights, independent from the vertically integrated undertaking, with respect to the assets necessary to operate the electricity system and to maintain, develop and construct the transmission network and shall also have the power to raise money on the capital market, in particular through borrowing and capital increase.

(2) The independent transmission system operator shall act so as to ensure it has the resources it needs in order to carry out the activity of the electricity transmission properly and efficiently and develop and maintain an efficient, secure and economic transmission network.

(3) Any commercial and financial relations between the vertically integrated undertaking or the companies controlled in any way by the vertically integrated undertaking and the independent transmission system operator, including loans from the independent transmission system operator to the vertically integrated undertaking, shall comply with market conditions. The independent transmission system operator shall keep detailed records of such commercial and financial relations and make them available to the Agency upon request.

(4) The independent transmission system operator shall submit for approval by the Agency all commercial and financial agreements with the vertically integrated undertaking or companies controlled in any way by the vertically integrated undertaking. After checking the market oriented and non-biased conditions, the Agency shall grant or deny its approval within four weeks upon the day of receipt of the agreement. Should the Agency not inform the independent transmission system operator of its decision within the said period, it shall be considered that the approval to the subject agreement has been granted.

(5) The independent transmission system operator shall inform the Agency of the financial resources, referred to in paragraph 2 of this Article, available for future investment projects and/or for the replacement of existing assets.

(6) The vertically integrated undertaking shall refrain from any action impeding or prejudicing the independent transmission system operator from complying with its obligations defined by this Act and shall not require the independent transmission system operator to seek permission from the vertically integrated undertaking in fulfilling those obligations.

## **Independence of Personnel and Members of the Management Board**

### **Article 20**

(1) The Supervisory Board of the independent transmission operator referred to in Article 21 of this Act shall take a decision on the appointment of members of the Management Board of the independent transmission operator, termination and renewal of their mandate, working conditions, including remuneration and other material rights of Management Board members in accordance with the act regulating companies.

(2) Members of the Management Board of the independent transmission operator have to be independent and professional in the execution of their work and conduct. Their independence and professionalism shall be ensured in the way that they:

1. shall neither take any other professional position, nor directly or indirectly, hold any other office, assume any obligation, hold business interest, or maintain business

- relations with other parts of the vertically integrated undertaking or its majority shareholders,
2. over a 3-year period prior to their appointment they shall not hold any position with the independent transmission operator, or, directly or indirectly, hold any office, assume obligations, hold business interest, or maintain business relations with the vertically integrated undertaking or any of its parts or its majority shareholder except for the transmission system operator. This term applies for appointments after 3 March 2012,
  3. upon the termination of their contractual relationship with the transmission system operator, they shall, over a minimum period of 4 years, neither take any professional position, hold any office, business interest nor maintain business relations with other parts of the vertically integrated undertaking nor its majority shareholder, and
  4. shall have no business interest nor gain any other financial benefit, either directly or indirectly, from any other part of the vertically integrated undertaking. Their remuneration for the work done shall not depend on activities or business performance of the vertically integrated undertaking.
- (3) The independent transmission operator shall submit to the Agency without delay an appointment proposal by the Supervisory Board referred to in Article 21 of this Act for members of the Management Board, and terms and conditions of their contract with the company, especially terms referring to the commencement, duration and expiry of their contract, and information on contracted material and other rights.
- (4) Within a 3-week period from the receipt of the proposal referred to in paragraph 3 of this Act the Agency may challenge the draft decision on the appointment i.e. the terms and conditions of the contract with members of the Management Board, where:
1. there is a doubt as to the professional independence of the members of the Management Board within the meaning of paragraph 2 of this Act, and employment conditions, including salary and other material rights, or
  2. an early termination of their mandate involves doubt as to the irregularity of such early termination. Early termination shall be deemed irregular when it is capable of indicating circumstances surrounding the termination that are contrary to the independence provisions regarding a vertically integrated undertaking hereunder.
- (5) Provisions of paragraphs 2 and 4, item 2 of this Article shall also apply accordingly to employees holding managing positions in operating an electric power system, and maintenance, construction and development of the transmission network, i.e. to other employees on managing positions at the first managing level below the Management Board.

## **Independence of the Supervisory Board**

### **Article 21**

- (1) The independent transmission operator shall have a Supervisory Board appointed in accordance with the provisions of the act regulating companies i.e. regulating competence of a Supervisory Board to take decisions that may have a significant impact on the value of the assets of shareholders/members of the company of the independent

transmission operator, especially decisions to approve annual and long-term financial plans, the level of indebtedness of the independent transmission operator, and dividend/profit amount distributed to shareholders/members of the company. The Supervisory Board shall take decisions on appointment, reappointment, appointment terms, including remunerations and other material rights, and expiry of the contract with members of the Management Board. Decisions falling within the competence of the Supervisory Board do not include decisions on day-to-day activities of the transmission system operator, management of the transmission network, or on activities that are necessary for preparing a 10-year development plan for the transmission network.

- (2) The Supervisory Board shall be made up of representatives of the vertically integrated undertaking, representatives of third party shareholders/members, and representatives of other interested parties, such as employees of the independent transmission operator.
- (3) Provisions of Article 20 paragraphs 2, 3 and 4 of this Act shall apply at least to half of the members of the Supervisory Board minus one. Provisions of Article 20, paragraph 4, item 2 of this Act shall apply to all members of the Supervisory Board.

### **Compliance Programme and Compliance Officer**

#### **Article 22**

- (1) Independently of its organisational form, the transmission system operator shall adopt a compliance programme that defines more closely measures to exclude a possibility of biased conduct and the manner of monitoring the compliance with the programme. The compliance programme sets out special obligations of employees aimed at achieving these goals. The Agency shall give its prior approval for the compliance programme. The compliance officer shall monitor the compliance with the programme independently.
- (2) The Supervisory Board shall appoint the compliance officer with the prior consent of the Agency. The Agency may withhold its consent to the appointment of the compliance officer only if such officer is not independent enough or has no adequate professional skills. The compliance officer may be a natural or legal person. The provisions of Art. 20, paragraphs 1 to 3 of this Act shall apply to the compliance officer.
- (3) The compliance officer has the following tasks:
  1. to monitor the implementation of the compliance programme,
  2. to make the annual report, to determine measures taken for the purpose of implementing the compliance programme and to submit them to the Agency,
  3. to submit reports to the Supervisory Board and to give recommendations concerning the compliance programme and its implementation,
  4. to inform the Agency about any material violation concerning the implementation of the compliance programme, and
  5. to submit reports to the Agency about all commercial and financial relations between the vertically integrated undertaking and the transmission system operator.
- (4) The compliance officer shall submit to the Agency a proposal of decisions about the investment plan or about investments in the transmission network no later than the

moment when the Management Board of the transmission system operator submits them to the Supervisory Board.

- (5) If the Assembly of the vertically integrated undertaking or its Supervisory Board votes to prevent the adoption of a decision, which leads to the prevention or postponement of investment that is to be carried out within the next three years according to the ten-year plan for the development of the transmission network, the compliance officer shall inform the Agency thereof. The Agency shall act thereafter in accordance with the provisions of this Act, which regulates issues concerning the development of the transmission network and the authority to take decisions about investment.
- (6) The Agency approves requirements which regulate the employment of the compliance officer, the term of office of the compliance officer as well as the duration of the term of office or employment. Such requirements shall ensure the independence of the compliance officer, including the provision of all means required for the fulfilment of its tasks. During its term of office or employment, the compliance officer can neither hold any other professional position, nor hold, be it directly or indirectly, any office, nor have a business interest in the vertically integrated subject, or its part, or its majority shareholders,
- (7) The compliance officer shall submit written or verbal reports to the Agency on a regular basis. The compliance officer is also entitled to submit reports, verbal or written, to the Supervisory Board of the transmission system operator on a regular basis.
- (8) The compliance officer may attend all meetings of the managerial staff or of the Management Board of the transmission system operator as well as meetings of the Supervisory Board and Assembly. These bodies shall inform the compliance officer about scheduled meetings and deliver to him required meeting materials. The compliance officer shall attend all meetings where the following issues are considered:
  1. conditions for access to the network and the utilisation of the transmission network, especially those concerning prices of network utilisation, services concerning access to the network and its utilisation, the allocation of transmission capacity and congestion management, transparency, balancing and secondary markets,
  2. ongoing projects concerning the management of the electric power system and the maintenance and development of the transmission network, including investments in cross-border lines and inter-connectors, or
  3. purchase or sale of electricity required for the operation of the electric power system and the transmission network, including ancillary services, system services and balancing services.
- (9) The compliance officer monitors whether the transmission system operator works in compliance with the provisions regulating the confidentiality of the transmission system operator and transmission network owner.
- (10) The compliance officer shall have access to all relevant data and offices of the transmission system operator, and to all pieces of information it might require to fulfil its

tasks. The compliance officer shall have access to offices of the transmission system operator without having to announce it beforehand.

- (11) The Supervisory Board may discharge the compliance officer from office with the prior consent of the Agency. The Agency is authorised to request that the compliance officer be discharged from office on the grounds of insufficient independence in work or the lack of professional qualifications.
- (12) With regard to the job safety protection, the compliance officer shall enjoy during its employment rights pursuant to the provisions of the law regulating the protection of the Union representative, provided it is an employee of the transmission system operator.

## **Certification and Appointing of Transmission System Operators**

### **Article 23**

(1) The Agency shall constantly monitor whether the requirements for the separation of transmission system operators, as prescribed by the Act, have been met. The Agency shall be in charge of the certification of transmission system operators. The Agency shall issue a certificate to the transmission system operator as:

1. an transmission system operator with ownership unbundling pursuant to Article 14 of this Act or
2. an independent system operator pursuant to the provisions of Art.15 to 17 of this Act, or
3. an independent transmission system operator pursuant to the provisions of Art.18 to 22 of this Act.

(2) The certification procedure shall be conducted:

1. at the request of the transmission system operator pursuant to the paragraph 3, item 1 of this Article,
2. on the initiative of the Agency when:
  - the transmission system operator does not apply for certification pursuant to paragraph 3, item 1 of this Article, or
  - the Agency receives information about planned changes which represent a need for a new certification evaluation, or which may lead, or have led to the violation of the unbundling regulations,
3. in accordance with the instructions of the European Commission.

The provisions of Regulation (EC) 714/2009 shall apply to the certification procedure accordingly.

(3) The transmission system operator shall immediately:

1. apply for certification provided it has not been certified yet, and
2. inform the Agency about all planned transactions that might require a new certification evaluation.



The transmission system operator shall send to the Agency its data and all documents required for certification as requested by the Agency.

(4) The Agency shall submit to the European Commission for its opinion a draft certificate with an explanation within four months from the beginning of the certification procedure, or from the submission of documents by the transmission system operator. In the course of the certification procedure, the Agency shall take into account the opinion given by the Commission to the greatest extent possible pursuant to paragraph 1, items 1 and 3 of this Article. The Agency shall explain in writing possible deviations from the opinion of the Commission.

(5) After it has received the opinion of the European Commission, the Agency shall decide about the certification application within two months. If necessary for fulfilling the purpose of this Act, the certificate may be issued by stipulating certain obligations and requirements.

(6) As an exception to the provision of paragraph 4 of this Article, the Agency shall obligatory take into account the opinion given by the Commission when certifying pursuant to the provision of the paragraph 1, item 2 of this Article.

(7) The Agency shall keep records on all contacts with the European Commission made within the certification procedure. The official records shall be given to the undertaking applying for certification and to the Ministry for examination. The certificate and its explanation shall be made public, whereby its parts containing commercially sensitive information should be made illegible. The opinion given by the Commission under paragraph 4 of this Article shall be made public, unless provided otherwise in the explanation of the decision. The Agency shall preserve the confidentiality of commercially sensitive information.

(8) Transmission system operator and electric power undertakings engaged in generation or supply of electricity shall immediately submit to the Agency and the European Commission all data and information of relevance for the fulfilment of their tasks pursuant to the provisions of this Article as may be requested.

(9) Upon the completion of the certification procedure, the Agency shall appoint the transmission system operator by way of a decision pursuant to paragraph 1 of this Article and inform the European Commission thereof immediately. The European Commission shall give its prior approval for the appointment of the independent system operator pursuant to the provisions of paragraph 1, item 2 of this Article. If the Agency finds in the course of monitoring that, due to a violation of unbundling provisions, the requirements, based on which the certificate was issued, exist no more, the certificate may be revoked. The decision designating or revoking the transmission system operator shall be published on the Agency's web site and in the "Official Journal of the European Union".

### **Certification of Transmission System Operator in Relation to Third Countries**

#### **Article 24**

- (1) Subject to derogation set out in this Article, provisions of Article 23 of this Act shall accordingly apply to the certification procedure that has been initiated pursuant to a certification application filed by a transmission network owner or a transmission system operator which is controlled by a person or persons from a third country or third countries.
- (2) The Agency shall without delay notify the Ministry and the European Commission and submit a draft decision on:
  1. the certification application by a transmission network owner or a transmission system operator which is controlled by a person or persons from a third country or third countries, or
  2. all circumstances that would result in a person or persons from a third country or third countries acquiring control of the transmission network or the transmission system operator.
- (3) In the absence of an opinion by the European Commission within two months, or if the European Commission request a view from the Agency for co-operation of energy regulators i.e. interested parties, in which case the deadline may be extended for two more months at most, it shall be deemed that the European Commission has raised no objections to the preliminary decision of the Agency.
- (4) The Ministry shall assess whether granting certification by the Agency puts at risk the energy supply to the Republic of Croatia and the European Union, and it shall submit its view to the Agency within 60 days of the notification from the Agency. When considering this issue the Ministry shall take into account:
  1. rights and obligations of the European Union to a third country arising under international law, including all agreements concluded with one or more third countries to which the European Union is a party and which address the issues of the security of energy supply, in accordance with international obligations that the Republic of Croatia has assumed,
  2. rights and obligations of the Republic of Croatia to a third country arising under an agreement that the Republic of Croatia has concluded with it, insofar as they are in compliance with European Union law, and
  3. other specific facts and circumstances of the case and the third country concerned.
- (5) When granting certification, the Agency shall take into account the opinion of the Ministry. The Agency shall grant certification to a transmission system operator in relation to third countries within a period of 60 days from the date of filing the application referred to in paragraph 1 of this Article.
- (6) A complaint may be filed to the Agency against the decision under paragraph 5 of this Article by the transmission system operator in relation to third countries.

## **Network Development and Powers to Take Investment Decisions**

### **Article 25**

- (1) The transmission system operator shall until the 31<sup>st</sup> of October of the year preceding the plan submit to the Agency for its approval a 10-year development plan for the transmission network which is based on existing and forecast generation and loading of the power system after having consulted all the relevant interested parties. The 10-year network development plan shall contain efficient measures to guarantee the adequacy of the network and the security of supply.
- (2) The 10-year network development plan shall in particular:
  1. indicate to electricity market participants the main transmission infrastructure that needs to be built or upgraded in the next ten years,
  2. contain all the investments that have already been decided and identify new investments which have to be executed in the next three years, and
  3. provide a time frame for all investment projects.
- (3) When drawing-up the 10-year network development plan, the transmission system operator shall make a reasonable assumption about the development of the generation, supply, consumption and exchange of electric power with other countries taking account of investment plans of the neighbouring networks.
- (4) The Agency shall consult all actual or potential network users about the 10-year network development plan in a 15-day public debate. Persons or undertakings claiming to be potential network users may be requested to support such claims. The Agency shall publish on its Internet sites results of the consultation procedure, in particular the possible needs for investments.
- (5) The Agency shall examine whether the 10-year network development plan covers all investment needs that have been identified during the consultation procedure, and whether it is in compliance with the non-binding EU-wide 10-year network development plan referred to in Regulation (EC) No. 714/2009. Should there be any doubts as to its compliance with EU-wide network development plan, the Agency may consult the Agency for co-operation of energy regulators. The Agency may request from the transmission system operator to amend its 10-year network development plan.
- (6) The Agency shall monitor and evaluate the implementation of the 10-year network development plan.
- (7) Where the transmission system operator, for reasons other than some overriding reasons beyond its control, does not carry out investments that it had to execute in the following three years according to the 10-year network development plan, the Agency shall take at least one of the following measures in order to ensure the execution of the investments in question, provided that such investments are still relevant on the basis of the most recent 10-year network development plan:
  1. to require the transmission system operator to execute the investments in question,
  2. to organise a tender procedure open to all investors who are interested in the investments in question, or

3. to oblige the transmission system operator to accept a capital increase for financing the necessary investments and to allow independent investors to participate in the capital.

Where the Agency has used its powers referred to in subparagraph 2 of this paragraph, it may oblige the transmission system operator to choose one or more of the following possibilities:

1. financing by any third party,
2. construction by any third party,
3. building new assets in question itself, or
4. operating the new assets in question itself.

In the above case, the transmission system operator shall provide investors with all information necessary for the execution of investments, connect new assets to the transmission network, and generally, shall undertake everything that is necessary to facilitate the execution of investment projects in question. The Agency shall give its prior approval for the relevant financial arrangements.

- (8) Where the Agency has used its powers under paragraph 7 of this Article, the amounts of the transmission tariff items shall cover the costs of the investments in question.

### **Connection of a New Power Plant to the Transmission Network**

#### **Article 26**

- (1) With the prior approval of the Agency, the transmission system operator shall adopt, publish and enforce transparent, efficient and non-discriminatory rules for the procedure for connecting new power plants to the transmission network.
- (2) The transmission system operator shall not be entitled to refuse the connection of a new power plant to available network capacities on grounds of possible future limitations to the network, such as congestion in distant parts of the network. The transmission system operator shall provide necessary information to the applicant for the connection of the new power plant to the transmission network.
- (3) The transmission system operator shall not be entitled to refuse a new connection point on the ground of additional costs linked with the necessary capacity increase of the network elements in the close-up range to the connection point.

#### **Direct Lines**

#### **Article 27**

- (1) Where an electricity producer with the license to perform activity of electricity supply and a customer intend to enter into a contract for electricity delivery i.e. supply, but cannot get access to the network, they are entitled to construct a direct line provided that they obtain the authorisation from the Agency.

- (2) The Agency shall lay down objective and non-discriminatory criteria for granting the authorisation for the construction and operation of direct lines. The electricity undertaking referred to in paragraph 1 of this Article may supply electricity to its own premises, its subsidiaries and its customers through a direct line.
- (3) The possibility of supplying electricity through a direct line referred to in paragraph 1 of this Article shall not affect the possibility of contracting electricity supply in accordance of the principle of the regulated third-party access.
- (4) The Agency may grant the authorisation to construct a direct line if the network access has been previously refused or if a dispute settlement procedure has been initiated before the Agency.
- (5) The Agency may take a decision to refuse granting the authorisation to construct a direct line if such granting would obstruct enforcement of the provisions regarding public service obligations and final customer protection. The Agency shall be obliged to give substantiated reasons for such refusal in writing.
- (6) Appeal against decision referred to in paragraph 5 of this Article is not allowed. However, an administrative dispute may be initiated before the competent administrative court. The procedure before the administrative court shall be an urgent procedure.
- (7) Any physical intervention or construction of new direct lines shall be carried out following the procedures that have been laid down in the acts governing physical planning and construction.

### **Performing the Activity of Electricity Transmission**

#### **Article 28**

- (1) The transmission system operator shall perform the electricity transmission activity under terms and conditions as set out in the license to perform activity following the principles of objectivity, transparency and non-discrimination in the whole territory of the Republic of Croatia in accordance with this Act. The transmission system operator shall meet all certification requirements and criteria pursuant to the provisions of this Act prior to obtaining the license to perform activity.
- (2) The transmission system operator shall connect transmission network users to the transmission network under terms and conditions and against fees as determined in accordance with the methodology adopted based on laws regulating the energy sector and regulation of energy activities.
- (3) The transmission system operator shall apply in the entire territory of the Republic of Croatia the same tariff methodology for the same network user category, especially with regard to the voltage level of the inter-connector and the following: active energy, active power, taken-off excess reactive energy and metering service as well as other criteria.
- (4) The transmission system operator shall not trade in electricity, except to:

1. cover losses in the transmission network,
  2. balance the system and
  3. ensure system services.
- (5) The transmission system operator shall procure the electricity needed to cover the losses in the transmission network in the electricity market. If it is not possible, it shall immediately notify the Agency and demand from the producer to offer electricity for covering losses in the transmission network as the priority. Based on the report provided by the transmission system operator, the Agency may demand from the transmission system operator, the producer and other electricity undertakings to implement certain measures to ensure the coverage of losses in the transmission network.
- (6) The transmission system operator shall provide system services according to market principles. Electricity undertakings and end users who own devices for the provision of ancillary services shall, as the transmission system operator may request, immediately provide ancillary services to enable the provision of system services and to ensure safe and reliable operation of the electricity system. Mutual rights and obligations shall be regulated in a contract on the provision of ancillary services.
- (7) As long as the ancillary service market has not been established, conditions and prices concerning their provision shall be determined by the methodology for fixing prices and conditions for the provision of ancillary services adopted by the transmission system operator with the prior approval of the Agency. The transmission system operator shall inform the Agency about contracts on the provision of ancillary services concluded with providers and about monthly execution of such contracts. The Agency shall decide about establishment of the market of ancillary services, either independently or on the proposal of the transmission system operator.
- (8) The transmission system operator shall perform the technical part of tasks relating to the system balancing, that is stipulated in the rules on balancing the electricity system.
- (9) The transmission system operator shall pass the rules under paragraph 8 of this Article, with the prior opinion of the electricity market operator and the prior approval of the Agency. They shall stipulate the technical part of the system balancing. The technical part of the tasks includes measurements and activation of offers for balancing energy according to the list of economic priority, which the electricity market operator sends to the transmission system operator.
- (10) When it comes to the quality of electricity, the transmission system operator shall act pursuant to Article 60 of this Act.
- (11) The transmission system operator may hire generation facilities intended for temporary use only in cases:
1. of serious disturbances or failures in the electric power system,

2. to meet criteria for the safe transmission network operation and the safe supply of customers, or
  3. in case of crises according to rules and regulations regulating the electricity sector.
- (12) Generation facilities intended for temporary use are such facilities belonging to network users that are intended for temporary or permanent electricity generation for own needs with a possibility to generate electricity for the needs of the electricity market.
- (13) The criteria for safe transmission network operation and the safe supply of customers are the criteria for operating electric power systems and for planning the transmission network development as defined in the Grid Code.

## **Responsibilities of the Transmission System Operator**

### **Article 29**

The transmission system operator shall, in particular, be responsible for:

1. operating the electric power system and the transmission system of the Republic of Croatia with interconnected transmission systems, or with the distribution system in the Republic of Croatia,
2. the development of the transmission network that will ensure long-term capacity of the transmission network to fulfil reasonable demands for electricity transmission with operation security defined ahead,
3. maintenance and construction of the transmission network and for partially ensuring reactive power,
4. connecting regulation of energy activities users to the transmission network and creating technical requirements for connecting user under terms and conditions stipulated by laws regulating the energy sector and regulation of energy activities as well as other rules and regulations regulating this field,
5. reliability and availability of the electricity supply system and proper co-ordination between generation, transmission and distribution systems,
6. operating the electric power system in such way to achieve safe electricity delivery and economic utilisation of the transmission network,
7. ensuring network access and the utilisation of the transmission network to customers and producers, network users pursuant to regulated, transparent and non-discriminatory principles,
8. determining and separating costs incurred due to the electricity transmission, with the Agency's approval,

9. takeover as a priority of the total quantity of electricity delivered to the network from eligible producers connected to the transmission network, provided that demands concerning the maintenance of operation security and reliability have been fulfilled, especially with regard to transmission system Grid Code,
10. giving advantage to producers using domestic energy sources for generating electricity in the amount that does not exceed 15% out of totally used energy sources for generating electricity in the calendar year, in accordance with energy balance of the Republic of Croatia,
11. delivering to the electricity market operator accounting data on electricity takeover from eligible producers connected to the transmission network, for the purpose of calculation and issuing warranty of the electricity origin with regard to the primary energy source,
12. giving required instructions for the proper operation of generation and transmission systems in accordance with security and reliability criteria in accordance with transmission system Grid Code,
13. technical part of functions relating to the procurement of electricity to balance the system according to market principles as well as transparency and non-discriminatory principles,
14. supply of electricity to cover the losses in the transmission network following market principles and the principles of transparency and non-discrimination,
15. procurement of ancillary services in the transmission system following the principles of transparency and non-discrimination and under the regulated conditions until a well-functioning electricity market will be in place in accordance with Article 28 paragraph 7 of this Act,
16. allocation of the transmission capacity of cross-border transmission lines,
17. monitoring the discharge of its duties, in particular whether in relation to the principles of transparency, objectivity and non-discrimination, with the obligation to publish the annual report pursuant to the Agency's prior approval,
18. monitoring the enforcement of the transmission system Grid Code with the obligation to publish the annual report pursuant to the Agency's prior approval,
19. monitoring the losses in the transmission network and the annual loss analysis, as well as planning losses for the purpose of electricity procurement to cover losses, with the obligation to publish the annual report pursuant to the Agency's prior approval,
20. monitoring the security of electricity supply with the obligation to publish the annual report pursuant to the prior approval of the Agency that shall send the annual report to the Ministry,



21. providing to electricity undertakings and transmission network users information needed for an efficient access to the network and use of the transmission network following the principles of transparency and non-discrimination,
22. providing information on future needs for electricity and other information that the Agency might need,
23. submitting to the Ministry a substantiated proposal on the need to construct new generation facilities for the purpose of the security of supply,
24. submitting to the Agency and the electricity market operator opinions on the rules for organising the electricity market during their adoption procedure, and
25. taking due attention to energy efficiency and environment and nature protection.

### **Obligations of transmission system operator**

#### **Article 30**

Transmission system operator shall particularly be obligatory to :

1. ensure long-term capacity of the transmission network to meet the reasonable demands for power transmission, including predefined safety of plants, maintenance, modernization, improvement and development of transmission network,
2. contribute to the security of supply through adequate transmission capacities and the reliability of the transmission network,
3. use transmission network facilities in compliance with the technical regulations and standards, which shall be subject to formal audits,
4. taking steps to protect the environment,
5. taking legally prescribed safety measures when using the transmission network and other elements of the power system which serve the transmission system, which is subject to formal audits,
6. adopting, after completed public discussion lasting at least 15 days, with previous approval of the Agency, Grid Code of the transmission system and publishing them appropriately,
7. controlling electricity paths in the transmission network taking into consideration the exchange of electricity with other related networks and ensuring the availability of all the necessary auxiliary services,
8. managing the power system and, within the framework of technical and technological potentials of the transmission system, not limiting the purchase and sale of electricity, except in emergencies,
9. hiring generation facilities in its area and determining the use of connection lines to the networks of neighbouring transmission system operators based on the criteria, which needs to be objective, publicly announced and applied without discrimination,
10. regulating the frequency and the power of exchange,

11. securing electricity to cover the losses in the transmission network and to enable the provision of system services under transparent, non-discriminatory and market principles,
12. adopting, after holding a public discussion lasting no less than 15 days, with the previous approval of the Agency, objective, transparent and non-discriminatory conditions prescribed by the regulations on the balancing of the power system and publishing them in an appropriate way,
13. using electricity from its suppliers according to the list of economic priority delivered by the electricity market operator, in compliance with the rules on the balancing of the power system,
14. notifying the electricity market operator about the balance of the power system and activated offers from the list of economic priority in timely manner, under the conditions of electricity market organisation,
15. keeping a register of billing metering points of each balance sheet group for the points of supply on the transmission network,
16. signing contracts on the provision of auxiliary services with network users for the purpose of realizing system services in an economic and efficient way,
17. planning the operation of the power system in cooperation with the electricity market operator and the operators of other systems, including the distribution system operator,
18. exchanging the necessary information with the operators of other interconnected systems for the sake of safe and efficient operation, harmonized development and ensuring the operation of interconnected systems,
19. maintaining the safety of the power system operation,
20. ensuring non-discrimination with regard to all transmission network users, including associated entities within the vertically integrated entity,
21. providing information to network users, which they need for efficient access to the network and the use of the transmission network,
22. establishing a committee for complaints regarding the access to the network and the use of the transmission network in compliance with the provisions of the regulations regulating user protection, as well as an independent mechanism for efficient resolution of complaints and the resolution of disputes out of court,
23. harmonizing the preparation of plans for repairing transmission facilities and plants of network users,
24. resolving the overloads of individual elements of the transmission network, while preserving the equal position of all network users,
25. changing the plan of power plant engagement in case of jeopardized security of the power system plant, catastrophes, great deviation of consumption from the planned values, as well as in cases of measures implemented due to disturbances in the power market, crises and the congestion of the transmission network,
26. adopting, with the opinion of the electricity market operator and the prior approval of the Agency, in coordination with neighbouring transmission system operators and on the level of one or more regions for cross-border electricity exchange, the rules on the allocation and use of cross-border transmission capacities, based on market principles and publicly announcing them in an appropriate manner,

27. establishing cross-border transmission capacities in cooperation with the operators of interconnected systems,
28. assigning the cross-border transmission capacity in line with the principles of transparency and non-discrimination towards the participants in the electricity market and adequately publicly announcing the information about the allocation of cross-border transmission capacities,
29. announcing, publicly and appropriately, the data of importance for the use of the transmission network, regarding cross-border transmission capacities, congestions on cross-border and internal transmission lines, as well as other data necessary for organizing the electricity market,
30. maintaining the metering devices and collecting and processing the metering data from billing metering points of network users, in compliance with the law and special regulations,
31. measuring the electricity taken over and delivered at the points of separation of the transmission network from the distribution network, with transmission network users, neighbouring systems and other relevant points, where this data also needs to be at the disposal of the distribution system operator, as well as the operators of interconnected transmission systems and the Agency, on reciprocity basis,
32. delivering metering data from billing metering points and separation points with the neighbouring systems of other energy operators in compliance with the provisions of this Act and special regulations or in a way that has been regulated via a contract on mutual relations between the transmission system operator and the energy undertaking,
33. establishing technical conditions and expenditures of introducing advanced metering devices in compliance with the provisions of the act regulating the energy sector,
34. analysing the losses in the transmission network on annual basis and, when necessary, preparing and implementing the measures for decreasing losses,
35. before the 31 of October of current year, preparing and delivering, for the Agency's approval, the annual plan for losses in the transmission network for the next year,
36. adopting and appropriately publicly announcing, with the previous approval from the Agency, and before 31 October each year, an updated ten-year transmission network development plan, harmonized with the Energy Development Strategy of the Republic of Croatia and the Energy Development Strategy Implementation Programme, i.e. with the distribution network development plan, applications for the connection of producers' and end users' facilities onto the transmission network and development plans of the neighbouring transmission networks,
37. adopting and appropriately publicly announcing, with the previous approval of the Agency, before 30 of November of the year preceding the three-year period to which the plan refers, a three-year plan for transmission network development, harmonized with the ten-year plan for transmission network development and physical planning documents, where the only facilities that can enter this plan shall be those with prepared preliminary designs compliant with the physical plan, the act regulating the areas of physical planning, building and regulations adopted based on that act and other special regulations, with obligatory agreement of the distribution system operator regarding the meeting-point plants,

38. adopting and adequately publicly announcing, with the previous approval of the Agency and before 30 November of the year preceding the plan, an annual investment plan according to the needs of network users, harmonized with the ten-year and three-year plan for transmission network development and physical planning documents,
39. delivering requests to the Agency for approval, including the elaborated information about all details, in relation to all planned and unplanned changes of the financial framework of investment plans throughout the year,
40. when adopting a ten-year and three-year plan for transmission network development and adopting annual investment plans, to define the amount of the annual energy saving in the percentage of the average total electricity delivered in the previous three years and to take into account consumption management and distributed production, which may delay the need for boosting the transmission network. The Agency shall deliver the plans to the Ministry after their publication,
41. harmonizing development plans with the requirement for asset division pursuant to Article 76, Paragraphs 6 and 8 of this Act,
42. cooperating and exchanging information, in compliance with international obligations adopted by the Republic of Croatia, with the institutions established in the Energy Community or in the European Union, which monitor transmission network development plans, the use and development of cross-border transmission lines and the cooperation within one or more regions,
43. in line with the international obligations of the Republic of Croatia, taking into consideration the opinions and recommendations and honouring the decisions of the institutions set up in the Energy Community or in the European Union, which have the right and the obligation to perform tasks related to the obligations of the transmission system operator,
44. participating, in compliance with the international obligations of the Republic of Croatia, in the activities of the European Network of Transmission System Operators for Electricity,
45. organizing an electricity exchange in cooperation with the electricity market operator,
46. participating, in cooperation with other transmission system operators, with electricity market operators and other relevant entities on electricity exchanges for the purpose of developing regional electricity markets or market liberalization,
47. applying tariff item sums for the transmission of electricity based on the decision and methodology adopted by the Agency, in line with the provisions of the act regulating the energy sector and adequately announcing them in public, at least 15 days before the commencement of their implementation. The methodology also needs to include the costs incurred due to their participation in international organizations from the field of electricity transmission established under international agreements,
48. adopting, with the Agency's approval, the rules and the price list for non-standard services of the transmission system operator and adequately announcing them to the public at least 15 days before the beginning of implementation. In the event of withholding the approval, the Agency may determine these prices by itself,
49. once a year, submitting a report to the Agency regarding the implementation of all its activities, responsibilities and obligations from Articles 28, 29 and 30 of this Act in line with the Agency's instructions,

50. periodically, based on the dynamics, scope and method determined by the Agency, deliver data requested by the Agency, particularly regarding:
- the technical data of the transmission network,
  - the electrical power balance of the Republic of Croatia,
  - the loading of the power system,
  - electricity generation facilities and their production,
  - the electricity delivered to buyers in the transmission network,
  - the exchange of electricity across borders,
  - the allocation and use of cross-border transmission capacities,
  - the use of profits from the allocation of cross-border transmission capacities,
  - the connections to the transmission network,
  - operating events in the transmission network,
  - about the providers and provided auxiliary services,
  - the supply of electricity for covering losses in the transmission network,
  - the data related to user protection.
51. based on the reports and data from Items 49 and 50 of this Article, and in case of the request issued by the Agency, taking certain measures to ensure the normal operation and the method of managing the transmission network, a decrease of electricity losses, improvement in the quality of electricity supply and to ensure the principles of transparency, objectivity and non-discrimination,
52. delivering metering data from billing metering points about the generation and consumption of electricity to local and regional self-government units for energy planning purposes, while respecting the confidentiality of individual network users' data.

### **Allocation and use of cross-border transmission capacities and the rules on balancing the electric power system**

#### **Article 31.**

- (1) For the purpose of allocating and using cross-border transmission lines within one or more regions, i.e. implicit purchase and sale of electricity together with cross-border transmission capacities, the transmission system operator may, in compliance with authorized international agreements, establish one or more business entities for coordinated auctions of cross-border transmission capacities with transmission system operators from other countries.
- (2) Transmission system operator adopts, with the previous approval of the market operator and the Agency, the rules on balancing the electric power system.

### **Annual reports of the transmission system operator**

#### **Article 32.**

(1) The transmission system operator shall, before 30 April of the current year at the latest, publish an annual report on the implementation of all its activities, responsibilities and obligations from Articles 28, 29 and 30 of this Act.

(2) Transmission system operator shall, before 30 April of the current year at the latest and with the previous approval of the Agency, publish an annual report on the security of supply in the transmission system for the previous year, based on which the Ministry shall prepare its own annual report on the security status of electricity supply and the expected demand for electricity in the Republic of Croatia. Based on these reports, the Agency may, in cooperation with the Ministry, demand from the transmission system operator and other energy undertakings to implement certain measures, when necessary, in order to improve the security of electricity supply.

### **Delivering data to transmission system operator**

#### **Article 33.**

(1) Producers, distribution system operator and end users connected to the transmission network shall, at the request of the transmission system operator, deliver to the transmission system operator data and information for the purposes of system development, management and analyses of operating events:

1. regarding the use/production and other information needed to regulate the frequency, voltage and the exchange of electricity,
2. which are necessary for the realisation of network access and the use of the transmission network and the preparation of development plans and annual investment plans,
3. which are necessary for planning the operation of the electrical power system in the short term, including the hourly plan for the generation of electricity from renewable energy sources,
4. which are necessary for providing system services,
5. which are necessary for monitoring the quality of electricity supply in the transmission system and
6. which are needed to monitor the security of electricity supply.

(2) Transmission system operator shares the metering data and other information needed for regulating the frequency, voltage and exchange of electricity with the operators of interconnected transmission systems under the condition of reciprocity.

### **Protection from transmission system operator's conduct**

#### **Article 34.**

(1) A party that is unsatisfied with the operation of the transmission system operator may state their complaint to the Agency in writing.

(2) The complaint from Paragraph 1 of this Article shall be submitted in relation with the refusal to make a connection onto the network, with the conditions of connection to the transmission network, with the defining of a connection fee and/or increase of connected load on the transmission network, with the implementation of methodology for determining the

sum of tariff items for the use of the transmission network, the application of rules on the balancing of the power system, the provision of electricity balancing services in the power system and the allocation of capacity on cross-border transmission lines.

(3) The Agency shall, without delay and within no more than 30 days from the date when the complaint was stated, inform the complaining party in writing about the measures it took in relation to the complaint. If the complaining party is not satisfied with the measures taken or has not been notified within the period provided about the measures taken, they can initiate an administrative dispute.

## **Transmission System Grid Code**

### **Article 35.**

- (1) The operation and the method of managing the transmission network shall be regulated by the Transmission System Grid Code.
- (2) Transmission System Grid Code shall particularly stipulate:
  1. technical and other conditions for the connection of users to the transmission network,
  2. technical and other conditions for the safe takeover of electricity from the producer and from other systems and safe operation of the transmission network for the purpose of secure supply of end users with the electricity of prescribed quality,
  3. technical conditions for access to the network and the use of transmission network,
  4. technical conditions for transmission network maintenance,
  5. the technical obligations of transmission network users,
  6. planning of operation and managing the transmission system,
  7. the procedures for operating the power system in normal network operation and in the event of force majeure, disturbed network operation, extraordinary network operation and other extraordinary circumstances,
  8. the protected areas and special conditions within the protected areas of power facilities,
  9. types, criteria and method of providing auxiliary services and system services,
  10. technical and other conditions for mutual connection and operation of networks,
  11. planning the development of the transmission network,
  12. characteristics of measuring equipment at the billing metering point of the network user,
  13. the characteristics of the measuring equipment or the standards that measuring equipment needs to meet in order to enable consumption management and time recognition of the structure of electricity consumption,
  14. the characteristics of measuring equipment or the norms that the measuring equipment at the user's billing metering point must meet, functional requirements, the accuracy class of metering devices and the method of measuring electricity in the transmission system, especially considering:
    - the method of installation, reception, testing and maintenance of metering equipment,

- the method of collecting metering and other data at the metering points and
  - the method of processing, availability and transfer of metering and other data on metering points to the users of these data, as well as the method of grouping and archiving data,
15. the obligation of the transmission system operator for establishing standard technical solutions for the network and its connections, including the billing metering points of network users.
- (3) Transmission System Grid Code shall be adopted by the transmission system operator, with the previous approval of the Agency. In the procedure of adopting Transmission System Grid Code, the transmission system operator shall ensure adequate participation of all stakeholders and conduct a public discussion lasting at least 15 days. Transmission System Grid Code shall be published in the Official Gazette.

## **V. ELECTRICITY DISTRIBUTION**

### **Unbundling of distribution system operator**

#### **Article 36.**

- (1) If the distribution system operator is a part of a vertically integrated entity, then it needs to be independent from other activities, which are not related to distribution, at least in terms of its legal form, organization and decision-making. The Government of the Republic of Croatia, at the Ministry's or Agency's request, may issue a decision on obligatory ownership unbundling of the capital assets of the distribution system operator from the vertically integrated entity or on obligatory ownership unbundling of the distribution system operator from the vertically integrated entity if, based on a survey conducted regarding the electricity market functioning from Article 57 of this Act, it finds that the association of the distribution system operator with the vertically integrated entity hinders market development and ensures a privileged position of the vertically integrated entity or any of its parts.
- (2) In addition to the demand from Paragraph 1 of this Article, if the distribution system operator is a part of a vertically integrated entity, it must be independent from other electricity-related activities in terms of its organisation and decision-making. In order to achieve that, the following minimum criteria shall apply:
1. persons in charge of managing the distribution system operator shall not take part in the structures of the vertically integrated entity that are, directly or indirectly, responsible for the everyday functioning of electricity generation, electricity transmission and electricity supply,
  2. it is necessary to take appropriate measures so that the professional interests of persons in charge of managing the distribution system operator are taken into consideration in a way that enables them the possibility of independent operation,
  3. distribution system operator shall have real decision-making rights, independently from the integrated energy undertaking, with regard to the capital assets necessary for the operation, maintenance and development of the network. In order to perform these tasks, the distribution system operator must have at its disposal the necessary funds, including the financial, material, technical and personnel funds. This does not preclude the existence of corresponding coordination mechanisms that ensure the protection of financial and management supervision rights that the holding company has regarding



the return on investment in the dependant entity, which are related to the provisions of the acts regulating the field of regulation of energy activities,

4. distribution system operator shall adopt a harmonization programme identifying the measures taken, which exclude the possibility of biased management, as well as the corresponding supervision over its compliance. The harmonisation programme defines special employee obligations related to the completion of this objective. The person or entity in charge of monitoring the harmonization programme, i.e. the person in charge of monitoring the harmonisation in the distribution system operator shall deliver to the Agency an annual report containing all the measures that had been taken and this report shall be published. The person from distribution system operator in charge of monitoring the harmonization is completely independent and has access to all the necessary information of the distribution system operator and its associated entities in the course of performing their task.

(3) If the distribution system operator is a part of a vertically integrated entity, the Agency shall monitor its activities so as to prevent the use of advantages of its vertically integrated structure to disrupt market competition. The vertically integrated distribution system operator, with its corporate identity, communications, trademark and business premises shall not mislead with regard to the separate identity of the energy undertaking, which is also a part of such vertically integrated entity.

(4) The provisions on unbundling from Paragraphs 1 to 3 of this Article shall not prevent the holding company in the vertically integrated entity to approve annual financial plans or other equivalent instruments to the distribution system operator as its dependent company and to set general limitations for the indebtedness level of the distribution system operator as its dependent company but it shall not be allowed to give instructions regarding the everyday operation nor instructions regarding particular decisions on the construction or upgrading of distribution networks unless they are exceeding their adopted financial plans or another equivalent instrument.

(5) The adopted financial plans from Paragraph 4 of this Article shall be delivered to the Agency within a month from the date of their acceptance for the purpose of monitoring and analysing their implementation.

(6) Within the vertically or horizontally integrated entity there shall be no mutual subsidising of companies engaged in regulated activities and companies engaged in market activities, nor subsidising between activities within the same company for the purpose of enabling market competition and avoiding the discrimination of network users.

(7) The provisions from Paragraphs 1, 2 and 3 of this Article shall not apply to integrated energy undertakings, which supply electricity to less than 100,000 customers or which supply small isolated systems.

### **Closed distribution systems**

#### **Article 37.**

(1) The Agency may, as an exception, allow systems which are distributing electricity within a geographically closed industrial and commercial location or common services location as a closed distribution system which, not challenging the provisions of Paragraph 4 of this Article, does not supply electricity to customers from the households category, if:

1. due to special technical or safety reasons the business or production processes of the

users of such network are integrated or

2. this system distributes electricity primarily to the system owner or operator or its associated entities.

(2) The Agency may exclude the closed distribution system operator from:

1. the obligation relating to the supply of electricity it uses to cover losses in the distribution network, as well as the supply of the reserve capacity in its system in accordance with the transparent, non-discriminatory and market-based procedures and
2. the obligation to have their prices, i.e. fees or methodologies on which their calculation is based, approved before they come into force according to the obligations and authorities of the Agency.

(3) If exclusion from Paragraph 2 of this Article is granted, the applicable prices, i.e. fees or methodologies on which their calculation is based, shall be revised and approved according to the obligations and authorities of the Agency, at the request of such network's users.

(4) The use of the network in a closed distribution system by a small number of households, persons who are employed or similarly related to the owner of the closed distribution system and are located in the area encompassed by the closed distribution system does not preclude the approval of the exclusion from Paragraph 2 of this Article.

## **Performing electricity distribution activities**

### **Article 38.**

(1) Distribution system operator shall perform electricity distribution under the conditions defined by the licence to perform the activity according to the principles of objectivity, transparency and non-discrimination in the whole territory of the Republic of Croatia pursuant to the provisions of this Act.

(2) Distribution system operator proposes the amount of tariff items adopted by the Agency pursuant to the provisions of this Act and the act regulating the energy sector.

(3) Under the agreement on interrelations the distribution system operator is obliged to regulate the rights and obligations with all energy undertakings in whose name it collects the fees pursuant to the provisions of this Act and other special regulations.

(4) Distribution system operator shall connect the users of the distribution network onto the distribution network according to the conditions and fees defined in line with the methodology adopted based on the act regulating the energy sector and the regulation of energy activities.

(5) Distribution system operator shall apply the same tariff methodology on the whole territory of the Republic of Croatia for the same category of network users, especially considering the voltage level of the connection and the sizes such as operating energy, power, surplus reactive power received and the metering services, as well as other criteria.

(6) Distribution system operator shall not trade electricity, except:

1. to cover the losses in the distribution network and

2. to supply auxiliary services for the distribution network.

(7) Distribution system operator shall procure the electricity for covering losses in the distribution network on the electricity market, and if it is unable to do so, it needs to notify the Agency without delay and request from the producers to offer electricity to cover the losses in the distribution network as a priority. The Agency may, based on the report from the distribution system operator, request from the distribution system operator, producers and other energy undertakings to implement certain measures, when necessary, to ensure the coverage of losses in the distribution network.

(8) Energy undertakings and end users that own the devices for providing auxiliary services to the distribution network shall, at the request from the distribution system operator and without delay, offer auxiliary services for the distribution network in order to realize services in the distribution network. Mutual rights and obligations shall be regulated by a contract on providing auxiliary services for the distribution network.

(9) Before the establishment of the system for providing auxiliary services in the distribution network, in the conditions of the functional electricity market, the conditions and prices of their provision shall be determined by a pricing methodology, which is based on the principle of least cost and conditions for the provision of auxiliary services in the distribution network, which shall be adopted by the distribution system operator with the previous consent from the Agency. Distribution system operator shall, on quarterly basis, report to the Agency about the signed contracts on the provision of auxiliary services in the distribution network. The Agency shall, independently or at the proposal of the distribution system operator, decide on the establishment of the market for auxiliary services in the distribution network.

(10) In terms of the quality of electricity, distribution system operator shall proceed in accordance with the Article 60 of this Act.

## **Responsibilities of the distribution system operator**

### **Article 39**

The distribution system operator shall particularly be responsible for:

1. operation of the distribution system in coordination with the transmission system in the Republic of Croatia,
2. development of the distribution network ensuring the long-term ability of the distribution network to meet reasonable demands for the distribution of electricity,
3. maintenance and construction of the distribution network and a portion of reactive power generation,
4. construction of user connections to the distribution network and creation of technical prerequisites for user connection under the conditions prescribed in this Act, the Energy Act, the Act on the Regulation of Energy Activities and other legislation regulating this sector,
5. management of the distribution system in the manner that achieves reliability of electricity supply and economic use of the distribution system,
6. ensuring access and use of the distribution network by customers and producers, distribution network users according to regulated, transparent and non-discriminatory principles,

7. performing duties defined in other special regulations related to final customers who are proclaimed vulnerable customers under the provisions of this Act and regulations adopted on the basis of this Act,
8. ensuring the harmonized operation of the distribution system with interconnected systems of other operators and user facilities,
9. securing energy to cover the losses in the distribution network under transparent, non-discriminatory and market principles,
10. ensuring ancillary services in the distribution system according to transparent and non-discriminatory principles and under regulated conditions until the conditions for a functional electricity market are established pursuant to Article 38, paragraph 9 of this Act,
11. sending billing data on the electricity taken over from the eligible producers connected to the distribution network to the electricity market operator, particularly for the purpose of settling accounts and issuing guarantees of origin of electricity with regard to the primary energy source,
12. taking over as a priority the total electricity from eligible producers connected to the distribution network, provided that the requirements relating to reliability and safety of the operation are fulfilled in particular pursuant to the Grid Code for the distribution system,
13. availability of the distribution system considering the supply of electricity to customers, or taking over of electricity from producers connected to the distribution network,
14. monitoring the implementation of all its duties, especially for the purpose of safeguarding the principles of transparency, objectivity and non-discrimination, with the obligation of publishing an annual report subject to prior approval of the Agency,
15. monitoring the implementation of the Grid Code for the distribution system, with the obligation of publishing an annual report subject to prior approval of the Agency,
16. monitoring losses in the distribution network and producing annual loss analyses, as well as planning losses for the purpose of procurement, with the obligation of publishing an annual report subject to prior approval of the Agency,
17. monitoring security of electricity supply in the distribution system, with the obligation of publishing an annual report subject to prior approval of the Agency which, after its publication, forwards the annual report to the Ministry,
18. providing information to energy undertakings and distribution network users necessary for efficient access and use of the distribution network according to the principles of transparency and non-discrimination,
19. establishing and keeping a register of vulnerable customers,
20. providing information on future electricity demand and other information required by the transmission system operator and the Agency,
21. implementation of energy efficiency improvement measures,
22. paying due attention to environmental and nature protection.

### **Duties of the distribution system operator**

## **Article 40**

The duties of the distribution system operator shall particularly be as follows:

1. manage and maintain, construct and modernise, improve and develop the distribution network for the purpose of ensuring safe, reliable and efficient operation of the distribution system and electricity distribution,
2. apply the best experiences from practice in order to achieve the security of supply and availability of the distribution system,
3. use distribution facilities and distribution network user facilities in accordance with the prescribed conditions,
4. carry out the prescribed safety measures during use of the distribution network and other facilities in the function of the distribution system,
5. carry out environmental protection measures,
6. secure a non-discriminatory approach towards distribution network users, and especially the associated undertakings within the vertically integrated undertaking,
7. provide clear and precise information to distribution network users necessary for efficient access and use of the distribution network, subject to protection of information and data considered confidential under the law,
8. establish the complaints committee in view of the access to and use of the distribution network pursuant to the provisions of the act governing consumer protection as well as an independent mechanism for efficient treatment of complaints and out-of-court dispute settlements,
9. ensuring access and use of the distribution network according to regulated, transparent and non-discriminatory principles,
10. after carrying out a public discussion with minimum duration of 15 days, subject to prior approval of the Agency, adopt the Grid Code for the distribution system and publish them in an appropriate way,
11. conclude contracts on the provision of ancillary services with the transmission system operator for the purpose of realising the system services that define the provision, use and collection of payment for these services as well as other conditions and time limits related to these services,
12. securing electricity to cover the losses in the distribution network and to procure ancillary services in the distribution network according to transparent, non-discriminatory and market principles,
13. conclude contracts on the provision of ancillary services for the distribution network with network users for the purpose of realising services in the distribution network and ensure that services in the distribution network are provided in an economic and efficient manner,
14. keep the register of billing metering points of each balance group for the delivery points in the distribution network,
15. analyse losses in the distribution network annually, including an estimate of technical losses and unauthorised takeover of electricity and, where appropriate, prepare and implement measures for the reduction of losses,

16. before 31 October of the current year, prepare and submit to the Agency for approval the annual plan of distribution network losses for the next year, including an assessment of technical losses and unauthorised takeover of electricity,
17. adopt and publish in an appropriate manner, subject to prior approval of the Agency, before 31 October of each year an updated ten-year distribution network development plan, harmonised with the Energy Strategy of the Republic of Croatia and the Strategy Implementation Programme, or with the transmission network development plan and requirements for connecting facilities of producers and final customers to the distribution network, pursuant to the criteria defined in the Grid Code for the distribution system,
18. adopt and publish in an appropriate manner, subject to prior approval of the Agency, by 30 November of the year preceding the three-year period to which the plan refers, the three-year distribution network development plan, harmonized with the ten-year distribution network development plan and with physical planning documents whereas that plan will include only those facilities for which concept designs were prepared in line with the physical plan, the Physical Planning and Construction Act and regulations adopted on the basis of that Act and other special regulations, with mandatory harmonization with the transmission system operator regarding the substation network,
19. adopt and publish in an appropriate manner, subject to prior approval of the Agency, by 30 November of the year preceding the plan, the annual investment plan according to the needs of network users, harmonized with the ten-year and three-year distribution network development plan and with physical planning documents,
20. submit to the Agency for prior approval any requests, including explained information on all details, with regard to all planned and unplanned changes in the financial framework of annual investment plans during a year,
21. upon adoption of the ten-year and three-year distribution network development plan and adoption of annual investment plans, define the amount of annual energy savings in percentage of the average total distributed electricity in the previous three years and take account of consumption management and distributed generation, which may postpone the need to reinforce the distribution network. After their release, the Agency shall forward the plans to the Ministry,
22. determine, subject to prior approval of the Agency, the amounts of tariff items for the use of distribution network based on the methodology passed by the Agency, in accordance with the provisions of the act governing the energy sector, taking into consideration distribution network development plans as well as obligations arising from the Agency's request to implement particular measures in order to ensure the principles of transparency, objectivity and non-discrimination, and publish them in an appropriate manner and at least 15 days prior to their application,
23. adopt, with prior approval of the Agency, rules and price list for non-standard services of the distribution system operator and publish them in an appropriate manner and at least 15 days prior to their application – in case of denying approval, the Agency may set those prices by itself,
24. maintain metering devices and collect and process metering data from billing metering points of network users, in accordance with this Act and special regulations,

25. specify technical requirements and costs of introducing advanced metering devices pursuant to the provisions of the act governing the energy sector,
26. once a year submit to the Agency a report regarding the implementation of its activities, responsibilities and duties referred to in Articles 38, 39 and 40 of this Act in accordance with the Agency's instructions,
27. periodically, according to the dynamics, scope and manner prescribed by the Agency, submit data requested by the Agency, in particular:
  - technical data of the distribution network,
  - electricity generation facilities and their production,
  - purchase and sale of electricity to customers in the distribution network,
  - operating events in the distribution network,
  - provided ancillary services, including service providers,
  - purchase of electricity to cover losses in the distribution network,
  - connections to the distribution network,
  - data related to consumer protection.
28. based on the reports and data referred to in items 26 and 27 of this Article, in case of the Agency's request, implement particular measures in order to ensure normal operation and method of managing the distribution network, reduction of electricity losses, improving the quality of electricity supply and to ensure the principles of transparency, objectivity and non-discrimination,
29. submit metering data on electricity generation and consumption from billing metering points to local and regional self-government units for the purpose of energy planning, whilst respecting the confidentiality of data of individual network users.

### **Annual reports of the distribution system operator**

#### **Article 41**

- (1) The distribution system operator shall at the latest by 30 April of the current year publish the annual report on all activities, responsibilities and duties referred to in Articles 38, 39 and 40 of this Act.
- (2) The distribution system operator shall monitor the security of electricity supply and at the latest by 30 April of the current year publish, with prior approval of the Agency, the annual report on the security of supply in the distribution system for the previous year, on the basis of which the Ministry shall elaborate its annual report on the situation regarding the security of supply and expected electricity needs in the Republic of Croatia. The Agency, in cooperation with the Ministry, on the basis of those reports, may demand of the distribution system operator and other energy undertakings to implement certain measures so as to improve the security of electricity supply.

### **Provision of data for the distribution system operator**

#### **Article 42**

Producers and final customers connected to the distribution network shall, at the distribution system operator's request, provide to the distribution system operator the data and information necessary for the system development, maintenance and facility occurrences analysis:

1. about the electricity consumption/ generation and all other information necessary for the distribution system operator's operation,
2. that are necessary to gain network access, use the distribution network and elaborate the investment plans collected by current and potential distribution network users,
3. that are necessary to monitor the distribution network losses, including the assessment of technical losses and unauthorised takeover of electricity
4. that are necessary to secure the services in the distribution network
5. that are necessary to monitor the quality of electricity supply in the distribution system and
6. that are necessary to monitor the security of electricity supply

### **Safeguards concerning the actions of the distribution system operator**

#### **Article 43**

(1) The party that is not satisfied with the work of the distribution system operator can file a complaint in written form to the Agency.

(2) The complaint referred to in paragraph 1 of this Article shall be filed in relation to the denied access to the distribution network, conditions of the distribution network connection, fixation of the connection fee and/or the increase of the distribution network connection capacity, and on the basis of the methodology for the calculation of tariffs for the distribution network use.

(3) The Agency shall without delays and at the latest within 30 days from the filing of the complaint notify the unsatisfied party in written form about the measures taken with regard to the complaint. If the unsatisfied party is not satisfied with the taken measures or has not been notified about the taken measures in due time, administrative dispute can be initiated.

### **Distribution system Grid Code**

#### **Article 44**

(1) The operation and management of the distribution network shall be regulated by distribution system Grid Code.

(2) Distribution system Grid Code especially proscribes:

1. technical and other conditions for the connection of the users to the distribution network and connections to other systems,
2. technical and other conditions to secure safe takeover of electricity from the producers connected to the distribution network and from other systems, and secure the supply of electricity of appropriate quality to customers,
3. technical conditions for network access and distribution network use,
4. technical conditions for distribution network maintenance,



5. technical duties of distribution network users,
6. facility planning and distribution system management,
7. procedures during the ordinary network operation of the distribution system, and in case of *vis major*, disrupted network operation, unforeseen/exceptional network operation and other unforeseen circumstances,
8. protected areas and special conditions for energy facilities in protected areas,
9. ways in which restriction and/or disruption of electricity supply is conducted in case of insufficient electricity quantities in the energy system,
10. types, criteria and ways of securing of distribution network services,
11. technical and other conditions for the interconnection and operation of networks,
12. methodology and criteria for distribution network development planning,
13. metering equipment characteristics at the billing meter point of the network user,
14. metering equipment features or norms that the metering equipment must meet to secure consumption management and time recognition of the electricity consumption structure,
15. metering equipment features or norms that the metering equipment at the billing meter point has to meet, functional demands, the metering devices accuracy class and the way in which the electricity measurement in the distribution system is performed, especially with regard to:
  - type of installation, reception, testing and maintenance of the metering equipment,
  - way in which metering and other data are collected at the meter point and
  - way in which metering and other data on meter points are processed, available and transferred to data users, as well as the way in which the data are grouped and archived,
16. duty of the distribution system operator to fix standard technical solutions for the network and connections, including billing meter points.

(3) Distribution system Grid Code shall, with prior approval of the Agency, be adopted by the distribution system operator. In the process of the adoption of Grid Code, the distribution system operator shall ensure the participation of all interested parties and conduct a public debate in the period of at least 15 days. Distribution system Grid Code shall be published in the Official Gazette.

## **VI. ELECTRICITY TRADING**

### **Performance of electricity trading**

#### **Article 45**

- (1) Electricity trading is an energy activity independent of the electricity transmission and distribution activities, and it refers to purchase and sale, including resale, of electricity to wholesale market customers, with the exception of selling electricity to final customer.
- (2) An energy undertaking shall perform electricity trading on the basis of the licence pursuant to the act regulating the energy sector and pursuant to the provisions of this Act.

- (3) Every electricity trader shall make accessible to the Agency, the Croatian Competition Agency, and in line with internationally assumed obligations of the Republic of Croatia, to other competent institutions in the Energy Community or in the European Union that are in line with international contracts authorised, i.e. obliged to perform related duties, in the period of 5 years, the relevant data on all contracted transactions with wholesale market customers and with the transmission system operator and electricity market operator that are related to the purchase and sale of electricity, including derivatives.
- (4) The relevant data referred to in paragraph 4 of this Article shall include the details of the relevant transactions' characteristics, including the duration, delivery provisions, takeover and settlement, volumes, dates and times of the completion and transaction prices and ways in which the wholesale market customer in question is identified, as well as the specific details of all unsettled purchase and sale contracts and derivatives.

## **VII. ELECTRICITY SUPPLY**

### **Performance of electricity supply**

#### **Article 46**

- (1) Electricity supply is an energy activity independent of the electricity transmission and distribution activity, and it refers to electricity purchase and sale, including resale, of the electricity to customers.
- (2) The supplier with a licence to perform the electricity supply activity and who, on the basis of the decision of the Government of the Republic of Croatia is a holder of public service obligation performs the electricity supply activity in accordance with regulated conditions.
- (3) The sale of the electricity to final customers encompasses the processing of accounting elements, calculation of electricity consumption, issuing of bills to customers and collection of electricity payments on the basis of the final customers' supply contract. The sale of the electricity to final customers shall encompass the calculation, issuing of the bill and the charge of the incentive fee for the generation of the electricity from renewable energy sources and cogeneration, and may include the calculation, issuing of the bill and charge of a fee for the transmission and distribution network use, as well as other fees pursuant to the provisions of this Act, acts that regulate the energy sector, regulation of energy activities and specific rules.
- (4) In order to make the energy consumption calculation and determine other fees, every supplier is entitled to metering data in line with the standards prescribed by transmission system Grid Code, i.e. distribution system Grid Code, and technical conditions for billing meter points.
- (5) In case of nonstandard ways of electricity consumption calculation, each supplier may demand from the transmission system operator or distribution system operator a special service according to the price list for nonstandard services of the transmission system operator, i.e. distribution system operator, including the installation of another type of the metering device, the way in which the collection of metering data is performed and the way of processing and transmission of the metering data.

(6) The contract on supply of final customers shall establish the electricity volume on the basis of the previous readings of the customer's consumption at the billing meter point or it shall be determined in advance for an billing meter point and for an accounting period.

(7) The supplier who is a holder of the public service obligation may supply with electricity:

1. final customers under universal service, i.e. household customers that choose it or automatically use it as public service according to regulated conditions within universal service on the basis of the contract on the final customer supply and
2. final customers under guaranteed supply, i.e. only those final customers that are, under certain conditions, left without suppliers under regulated conditions within the guaranteed supply on the basis of the contract on final customer supply.

(8) Supplier that is not under the public service obligation may supply with electricity:

1. all final customers on the basis of the contract on final customer supply and
2. all wholesale market customers on the basis of the bilateral contract on electricity purchase and sale.

(9) Prior the beginning of the supply each supplier shall:

1. enter into the balancing energy contract with the electricity market operator or enter into the contract on the membership in the balancing group with the balance group leader in compliance with the electricity market organization rules,
2. enter into electricity purchase and sale contract with at least one other supplier, trader or producer, i.e. contract on the supply of the final customer with the final customer, and, if necessary, ensure cross-border transmission capacities,
3. pass conditions for the suppliers to supply electricity and publish them in the appropriate manner 15 days prior to the beginning of the supply, in compliance with the general provisions for network use and electricity supply, and pursuant to the provisions of this Act and the acts that regulate the energy sector.

(10) Supplier under public service obligation shall enter into final customer supply contract with its final customers.

(11) The supplier that is not under public service obligation may enter into contract with final customers who choose it freely, and with whom it freely agrees upon the volumes and price, as well as other accounting elements, of the electricity.

(12) The supplier under public service obligation shall, to its final customers within universal service, and the supplier who is not under public service obligation may, for each meter point, issue a single bill that shall be in line with the tariff systems, prescribed fees and market prices.

(13) The supplier may charge, in line with the tariff systems and prescribed fees, only those fees that are based on the concluded contract on mutual relations with the transmission system operator, distribution system operator, i.e. any other undertaking that the fees are collected for.

(14) Energy undertakings shall deliver the data from the final customer supply contract and data from the network use contract at the request of the electricity market operator.

(15) With regard to the quality of the electricity, the supplier shall act pursuant to the Article 60 of this Act.

(16) The conditions for the supplier of the electricity especially regulate:

1. delivery models and electricity price units,
2. payment options and conditions,
3. ways in which consumption and expenses information is provided, as well as the information on all rights regarding the public service
4. duration of the contract, terms of the renewal and termination of services and contract, the existence of any right to terminate the contract.

(17) The request for the fixation, i.e. modification of the tariff item sum, shall be submitted to the Agency by the supplier under public service obligation, who applies the methodologies set by the Agency. In the case of the rejection of the abovementioned request, the Agency shall independently decide upon the tariff items sum in its rejection decision.

(18) The Agency may independently by a decision determine the tariff item sums referred to in paragraph 17 of this Article on the basis of the methodology that is adopted pursuant to the act that regulates the energy sector.

(19) Every supplier shall make accessible to the Agency, the Croatian Competition Agency, and in line with internationally assumed obligations of the Republic of Croatia, other competent institutions in the Energy Community or in the European Union that are on the basis of the international contracts authorised, i.e. obliged to perform related duties, in the period of 5 years, the relevant data on all contracted transactions with wholesale market customers and with the transmission system operator and electricity market operator that are related to the purchase and sale of electricity, including derivatives.

(20) The relevant data referred to in paragraph 19 of this Article shall include the details of the characteristics of the relevant transactions, including the duration, delivery provisions, takeover and settlement, volumes, dates and times of the completion and transaction prices and ways in which the wholesale market customer in question is identified, as well as the specific details of all unsettled purchase and sale contracts and derivatives.

(21) The Regulation referred to in Article 11, paragraph 5 of this Act regulates the supplier's duty with regard to the share in the repurchase of the electricity generated from the facilities that use renewable energy sources and cogeneration.

## **Rules on supplier switching**

### **Article 47**

(1) The Agency shall prescribe the procedure of the supplier switching in the period of maximum three weeks from the notification of the former final customer supplier on the decision to switch the supplier.

(2) The supplier whose final customer supply contract has been terminated shall, after the switching of the electricity supplier, issue the final bill to the final customer with whom he has terminated the contract, at the latest within six weeks from the official switching of the supplier.

(3) The Agency shall set the rules on the supplier switching that determine the terms and procedure of the supplier switching and that especially define:

1. the procedure of the supplier switching,

2. the conditions that the new supplier has to fulfil, especially with regard to the balancing energy in line with the rules on the balancing of the energy system,
3. the duties of the supplier whose final customer supply contract is in the termination procedure,
4. the duties of the transmission system operator or distribution system operator that is connected to the final customer's facilities,
5. the rights of the new supplier with regard to the network access and the use of the transmission, i.e. distribution network for the needs of the new final customer supply,
6. the rights of the supplier with regard to the former final customer with regard to the settlement of all liabilities and
7. regulation of all previous financial and other liabilities of the final customers.

(4) The rules on the change of the supplier shall determine also:

1. the procedure of the supplier switching under the conditions of guaranteed supply as referred in Article 49 of this Act,
2. the procedure of the supplier switching in the case of the change in the ownership of the building and
3. the procedure of the supplier switching in contractual relations in the case of the temporary transfer of the final customer supplier contract and final customer network use contract to the third party.

(5) The supplier switching that is in line with the rules on the switching of the supplier is free of charge for final customers. The change of the supplier is carried out on the basis of the final customer's request, unless the guaranteed supply pursuant to the Article 49 of this Act is in question.

(6) The supplier whose final customer supply contract is in the process of termination shall not set additional conditions for contract termination, including the payment of the final customer's unsettled liabilities and shall supply the final customer until the final customer has switched to another supplier. The old supplier may set additional conditions only in the case when the final customer has failed to settle the liabilities after the supplier has issued a warning for the final customer to settle the liabilities or to reach an agreement on the settlement of the liabilities in the period not shorter than 8 days from the delivery of the warning.

(7) The Agency shall supervise the application of the rules on the supplier switching.

(8) The Agency shall make decisions on the disputes that are the result of the final customer's or supplier's complaint with regard to the procedure of suppliers switching. An appeal against the Agency's decision may not be filed, but administrative dispute can be initiated before the competent administrative court. The case before the administrative court is urgent.

(9) The complaint as referred to in paragraph 8 of this Article shall not delay the procedure of the supplier switching and the application of a new final customer supply contract.

## **Electricity supply under universal service**

### **Article 48**

(1) Customers under universal service shall be supplied with the electricity in accordance with the regulated quality that is delivered according to the tariff methodologies. Household customers may select or use automatically the supply under universal service as public service according to the regulated conditions.

(2) The customers supply as referred to in paragraph 1 of this Article shall be performed by one or more suppliers under universal service that were designated as public service providers by the Government of the Republic of Croatia on the basis of the decision as referred to in paragraph 5, Article 5 of this Act.

(3) The Government of the Republic of Croatia and the Agency shall ensure the availability of the universal service on the whole territory of the Republic of Croatia and take into consideration the suppliers with a significant share on the electricity market in the Republic of Croatia with regard to the number of final customers and the sale of the electricity.

(4) The customer supplier that carries out the activity of electricity supply under public service shall not supply the electricity to those final customers that are not entitled to the public service supply.

(5) The customer supplier under public service supply shall, at the latest by 30 April of the current year, issue the annual work report. The Agency may, on the basis of that report, if necessary, demand of the public service customer supplier and other electricity-related undertakings to implement certain measures to secure transparency, objectivity and non-discrimination.

(6) The methodology to fix tariff sums for the electricity supply under universal service shall be determined by the Agency pursuant to the act that regulates the energy sector and the regulation of energy activities.

(7) The customer supplier under universal service shall apply the tariff sums for universal service on the basis of the decision and methodology referred to in paragraph 6 of this Article, and publish them accordingly at least 15 days prior to the start of their application. The notification for the customers shall contain also the notification on their right to terminate the contract on the final customer supply under universal service.

(8) Customer supplier under universal service shall:

1. provide the universal service of supply to all final customers that are entitled to that type of the supply or use it automatically,
2. determine the conditions for electricity suppliers and publish them accordingly,
3. provide the customer supply under universal service only in line with the prices previously approved by the Agency, or those determined by the Agency in case the approval was refused, and that are based on regulated conditions,
4. take measures to secure safe, reliable and high-quality supply to those customers that are supplied under universal service and
5. Take measures to ensure the most acceptable electricity prices for those final customers that are under universal service, and that are the basic part of the prices based on regulated conditions.

(9) The customer supplier under universal service shall provide the electricity supply service regulated by general conditions for network use and electricity supply as referred to in article 59 of this Act.

(10) The customer that is entitled to the supply under universal service shall, in the case of the

procedure referred to in paragraph 49, article 1 of this Act, automatically switch to the customer supplier under universal service. The contract on the final customer supply under universal supply shall be concluded on the day that the conditions referred to in article 49, paragraph 1 of this Article regarding the rights to use the universal service are met.

(11) The distribution system operator shall deliver to the supplier under universal supply the data on customers that switch to universal service within 10 days from the arrival of the notification referred to in article 53, paragraph 6, item 20 of this Act.

(12) The customer supplier under universal service shall deliver to the final customer that is entitled to that type of the supply and selects it or uses it automatically, the contract on the final customer supply under universal service in written form in the period of 30 days from the beginning of the supply.

## **Guaranteed supply of the electricity**

### **Article 49**

(1) The guaranteed supplier supplies the final customer with electricity without any special request by the final customer in the case when his supplier withdraws from the electricity market (hereinafter: problematic supplier) if the final customer can in no way influence the new circumstances and loses the supply without protection, regardless if it is:

1. unplanned withdrawal, when the problematic supplier is no longer able to supply the final customer in line with the final customer supply contract due to bankruptcy or insolvency or significant disturbance on the electricity market,
2. planned withdrawal, when the problematic supplier withdraws from the market voluntarily, but under the condition that he prior notifies all its final customers on the exact time of withdrawal and the possibility of switching to another supplier or the possible supply from the guaranteed supplier or
3. serious non-compliance with the conditions from the licence and its revocation, when the problematic supplier due to serious and continuous misdemeanours breaches the terms of the licence.

The procedure of the withdrawal of the supplier from the electricity market, independent of the type of the withdrawal, shall be regulated by the rules on the organization of the electricity market.

(2) Transmission system operator and distribution system operator shall deliver the data on customers that switch to guaranteed supply from the guaranteed supplier in the period of 10 days from the written notification referred to in article 53, paragraph 6, item 20 of this Act.

(3) Guaranteed supplier may supply the final customer that is not entitled to supply under universal service indeterminably and in line with the prices of the electricity for guaranteed supply.

(4) The customer supplier under guaranteed service shall apply the tariff sums for guaranteed supply on the basis of the decision and methodology adopted by the Agency, pursuant to the act that regulates the energy sector, and publish them accordingly at least 15 days prior to the start of their application. The notification for the customers shall contain also the notification on their right to terminate the contract on the final customer supply under guaranteed service.

- (5) Guaranteed supplier shall, according to appropriate standards, publish the electricity prices for guaranteed supply.
- (6) The prices of the electricity for guaranteed supply are higher than the average electricity prices for the supply of similar final customers supplied on the electricity market.
- (7) The contract on guaranteed final customer supply shall be concluded from the day when the conditions on the use of the rights to guaranteed supply referred to in paragraph 1 of this Article have been met.
- (8) The guaranteed supplier shall deliver to the final customer the final customer guaranteed supply contract in written form within 15 days from the beginning of the guaranteed supply.
- (9) The guaranteed supplier shall without delay notify the final customer about the conditions of the guaranteed supply and the prices of the electricity for guaranteed supply and the final customer's right to freely select the supplier.
- (10) The guaranteed supplier may, due to unsettled liabilities of the final customer, demand the disruption of the supply to the final customer by submitting the request for the supply disruption to the transmission system operator or distribution system operator that the final customer is connected to.
- (11) The guaranteed supplier shall compile and at least once a year publish a report that includes the number of the supplied final customers, the total volume of the supplied electricity and the average guaranteed supply period, separately for the final customers that are entitled to supply under universal service and for all other final customers.
- (12) Guaranteed supply referred to in this article shall not apply to household customers.

### **Safeguards concerning the actions of the electricity supplier**

#### **Article 50**

- (1) The party which is unsatisfied with the operation of the universal supplier or the guaranteed supplier can file a complaint in written form to the Agency.
- (2) Complaint referred to in paragraph 1 of this article shall be submitted with regard to the refusal of the provision of the universal supply service to final customers that are entitled to that type of supply, and with regard to the refusal of the provision of the guaranteed supply service to final customers that are entitled to that type of supply, by applying the methodology for the determination of the electricity prices under universal service of supply and by applying the methodology for the determination of the electricity prices under guaranteed service of supply.
- (3) The Agency shall, without delay, and at the latest within 30 days from the filing of the complaint, notify the unsatisfied party in written form about the measures that have been taken with regard to the complaint. If the unsatisfied party is not satisfied with the measures or has not been notified of the taken measures in due period, administrative dispute can be initiated.

### **Performance of the electricity supply or trading activities from the part of the legal or natural person whose seat is in one of the Member States of the European Union**

#### **Article 51**



(1) The electricity supplier or trader from the European Union Member State that wants to become a participant on the electricity market in the Republic of Croatia shall obtain the licence from the Agency to perform the electricity supply and electricity trading activities.

(2) The Agency may to the active electricity supplier or electricity trader from the European Union Member State issue the licence to perform the electricity supply or electricity trading activities also under simplified conditions pursuant to the provisions of the subordinate regulations adopted on the basis of the act that regulates the energy sector, and that regulates the issuing and revocation of the licences to perform energy-related activities.

## **VIII ORGANISATION OF THE ELECTRICITY MARKET**

### **Scope of the electricity market**

#### **Article 52**

(1) The electricity market shall include retail and wholesale electricity markets and it shall be a liquid market.

(2) The wholesale electricity market shall include:

1. contract-based electricity market,
2. balancing electricity market and
3. electricity exchange.

(3) Purchase and sale in the wholesale electricity market shall be contracted by means of bilateral contracts in the organised electricity market.

(4) Contract-based electricity market is a market where purchase and sale of electricity is performed directly between electricity market participants based on bilateral contracts on purchase and sale of electricity.

(5) In the balancing electricity market, the electricity market operator shall purchase and sell electricity from market participants for the purpose of balancing the electricity system, while the transmission system operator, for the purpose of safe operation of the electricity system, shall perform measuring and activate bids for balancing energy according to the list of economic priority which is delivered to it by the electricity market operator.

(6) Participation in the balancing electricity market shall be regulated by means of a contract on the provision of balancing services which the electricity market operator shall conclude with electricity market participants, pursuant to the rules on electricity market organisation, whose integral part are the rules on balancing electricity market organisation including the rules on balancing energy calculation.

(7) The electricity market operator shall calculate and charge the balancing energy and shall calculate and pay for the provided balancing service.

(8) Until a functional balancing electricity market is established, electricity prices for the purposes of balancing the electricity system shall be calculated pursuant to the methodology for determining prices for the provision of balancing services, which is passed by the Agency upon proposal of the electricity market operator and subject to prior opinion of the transmission system operator.

(9) The electricity market operator shall inform the Agency on all contracts on the provision of balancing services concluded with electricity market participants and on the monthly realisation of these contracts.

(10) The electricity market operator shall be responsible for organising the electricity market in the entire territory of the Republic of Croatia pursuant to the rules on electricity market organisation, which are adopted subject to prior opinion of the transmission system operator and the distribution system operator and prior approval of the Agency.

(11) The electricity market operator and the transmission system operator shall be responsible for organising an electricity exchange for physical trade in electricity in the entire territory of the Republic of Croatia and its linking with other exchanges. The option of establishing an exchange of financial derivatives of electricity shall not be limited exclusively to the electricity market operator.

## **Electricity market operator**

### **Article 53**

(1) The electricity market operator is a company owned by the Republic of Croatia.

(2) The company Hrvatski operator tržišta energije d.o.o., Zagreb (Croatian Energy Market Operator) shall be the electricity market operator in the Republic of Croatia.

(3) The electricity market operator shall carry out the activity of electricity market organisation in the entire territory of the Republic of Croatia on the basis of a licence issued by the Agency pursuant to this Act and the act governing the energy sector.

(4) The electricity market operator shall carry out its activities in compliance with the principles of transparency, objectivity and independence, under the supervision of the Agency.

(5) The fee for organisation of the electricity market shall be set by the Agency upon proposal of the electricity market operator. The proposal of the electricity market operator shall be based on justified operation costs and shall be aligned with the annual programme of operations and financial plan.

(6) The electricity market operator shall be in particular responsible for:

1. organisation and development of the electricity market for the benefit and good of electricity market participants,
2. organisation and development of the balancing electricity market and securing of balancing energy,
3. organisation and development of an electricity exchange in cooperation with the transmission system operator,
4. adoption, subject to prior opinion of the transmission system operator and prior approval of the Agency, of the rules on electricity market organisation, whose integral part are the rules on balancing electricity market organisation including the rules on balancing energy calculation,
5. recording of contracts and contractual obligations between undertakings in the electricity market,

6. quantity-based balancing energy calculation according to data submitted by the transmission system operator and the distribution system operator, which is kept in registers pursuant to Article 30, paragraph 15 and Article 40, paragraph 14 of this Act,
  7. collection of funds related to the balancing of the system,
  8. financial account and control of financial coverage of the difference of identified deviations based on the quantity-based balancing energy calculation,
  9. preparation of daily schedules of electricity sale and purchase within and outside the borders of the Republic of Croatia pursuant to contractual obligations arising from sale and purchase on the electricity market,
  10. timely delivery of daily schedules of electricity sale and purchase referred to in item 9 of this paragraph to the transmission system operator,
  11. checking the alignment of the cross-border sale and purchase schedule with allocated cross-border transmission capacities,
  12. keeping records on suppliers and customers and their mutual obligations,
  13. keeping records on electricity market participants,
  14. issuing guarantees of origin of electricity and for establishing and keeping the register of guarantees of origin of electricity in the Republic of Croatia,
  15. adoption, subject to prior approval of the Agency, of the rules on using the register of guarantees of origin of electricity,
  16. entering into contracts on sale and purchase of the mandatory part of electricity produced from renewable energy sources and cogeneration with all suppliers, including suppliers under the public service obligation,
  17. collecting fees for incentivizing electricity generation from renewable energy sources and cogeneration from all suppliers, including suppliers under the public service obligation,
  18. entering into contracts with eligible producers entitled to incentive price,
  19. analyzing electricity market organisation and proposing measures for its improvement,
  20. delivering a written notice to the guaranteed supplier, the universal service supplier and transmission and distribution system operators regarding the problematic supplier referred to in Article 49, paragraph 1 of this Act,
  21. publishing, in an appropriate manner, information necessary for unobstructed electricity market organisation and carrying out of electricity-related activities, and
  22. giving opinions to the transmission system operator concerning the rules on allocation and use of cross-border transmission capacities.
- (7) The electricity market operator shall instigate, upon initiative and according to the Agency's instructions, a procedure for amending regulations or changing the amounts of charges whose adoption or designation is under its competence.
- (8) The electricity market operator shall not trade in electricity, except for the purpose of purchase and sale of balancing energy, for regulated purchase and sale of electricity produced from renewable energy sources and cogeneration whose production is incentivised.

- (9) With regard to the electricity system balancing, the electricity market operator shall carry out the commercial part of activities, elaborated in the rules on balancing energy calculation that are included and represent an integral part of the rules on electricity market organisation which serves for elaboration of the commercial part of the electricity system balancing. The commercial part of activities shall include:
1. organisation of the procurement side of balancing energy (balancing electricity market), which includes the collection of bids, preparation of the economic priority list and its delivery to the transmission system operator and payment to service providers, and
  2. organisation of the user side of balancing energy, which includes managing the calculation and collection of payment of balancing energy for deviations caused by undertakings responsible for the deviation, or leaders of balance groups.
- (10) Electricity undertakings shall ensure that the electricity market operator has continuous and unlimited access to data it requires to carry out its activities in accordance with the rules on electricity market organisation.

### **Protection against actions of the electricity market operator**

#### **Article 54**

- (1) A party unsatisfied with actions of the electricity market operator, or with the operator's taking or failure to take action that affects the party's rights, obligations or legal interests which are not resolved in administrative proceedings or when the law prescribes judicial or other legal protection, may submit to the electricity market operator a complaint (claim) in written form during the period in which the electricity market operator's action or failure to take action is ongoing. The complaint (claim) shall contain facts and evidence on which it is based. The electricity market operator shall decide on the complaint (claim) within fifteen days from the date of receiving the complaint (claim).
- (2) If, after the decision of the electricity market operator referred to in paragraph 1 of this Article, the unsatisfied party still considers that its rights and legal interests were violated by actions of the electricity market operator, for the purpose of protecting its rights the unsatisfied party may submit a complaint to the Agency during the period in which the electricity market operator's action or failure to take action is ongoing.
- (3) The Agency shall without delay and at the latest within 30 days from the date of receiving the complaint, notify the unsatisfied party in written form about the measures taken in regard of the complaint. If the unsatisfied party is not satisfied with the measures taken or was not notified about the taken measures within the prescribed period, it may initiate an administrative dispute. Proceedings before the administrative court shall be urgent.

### **Rules on electricity market organisation**

#### **Article 55**

- (1) The rules on electricity market organisation shall regulate the method of electricity market organisation and functioning.
- (2) The rules on electricity market organisation shall in particular regulate:
1. model of the electricity market,

2. procedures, principles and standards for electricity market organisation and functioning in accordance with the applied electricity market model,
  3. method of identifying and registering participants in the electricity market,
  4. types of contracts concluded in the electricity market,
  5. products for trade in the electricity market,
  6. standards and procedures for registering transactions in the electricity market,
  7. standards and procedures related to problematic suppliers in the electricity market,
  8. standards and procedures for establishing and keeping a database for the needs of the electricity market,
  9. standards and procedures for applying, preparing, verifying and modifying daily schedules of electricity sale and purchase,
  10. standards and procedures for procurement of ancillary services for the purpose of realising the system services and purchase of electricity to cover losses in the transmission and distribution network, for the purpose of ensuring continuous, safe and reliable supply of electricity to customers,
  11. rules and procedure for exchange of metering data of network users,
  12. balancing electricity market and rules on balancing energy calculation, and
  13. other issues required for electricity market organisation and functioning.
- (3) The electricity market operator shall adopt the rules on electricity market organisation subject to prior opinion of the transmission system operator and the distribution system operator and with prior approval of the Agency. The rules on electricity market organisation shall be published in the Official Gazette.

## **Electricity market participants**

### **Article 56**

- (1) A participant in the electricity market (hereinafter: the participant) may be an electricity undertaking or other legal and natural person that buys or sells electricity on the basis of the right to participate in the electricity market pursuant to the provisions of this Act and the rules on electricity market organisation.
- (2) Electricity market participants shall regulate their mutual rights and obligations through contracts pursuant to the provisions of this Act, the act governing the energy sector, and especially the rules on electricity market organisation, excluding supply contracts with final customers.
- (3) The transmission system operator, distribution system operator and electricity market operator shall be special participants in view of their obligation of purchasing electricity to cover losses in the transmission and distribution network, to purchase and sell balancing energy, purchase and sell electricity from renewable energy sources and cogeneration, and to trade in the electricity exchange, whose specificities shall be regulated in more detail by the rules on electricity market organisation.

## **Development of market competition**

### **Article 57**

- (1) The Agency shall, in cooperation with the competent competition authority, carry out investigations into the functioning of the electricity market at least every third year.
- (2) If required, the Agency may set out any necessary and proportionate measures to promote effective competition and ensure the regular functioning of the electricity market.
- (3) The measures referred to in paragraph 2 of this Article may include electricity release programmes whereby electricity undertakings are obliged to sell or to make available a certain volume of electricity or to grant access to part of their generation capacity to interested suppliers for a certain period of time.

## **Promotion of regional cooperation**

### **Article 58**

- (1) Pursuant to internationally assumed obligations of the Republic of Croatia, the Government of the Republic of Croatia and the Agency shall cooperate with competent authorities of other states for the purpose of integrating their national markets at one or more regional levels.
- (2) The Agency shall promote and facilitate the cooperation of transmission system operators at one or more regional levels, including on cross-border issues with the aim of creating a competitive electricity market, improving the consistency of their legal, regulatory and technical framework and fostering the integration of isolated systems forming electricity islands that persist in the Energy Community or the European Union, pursuant to internationally assumed obligations of the Republic of Croatia
- (3) The geographical areas covered by such regional cooperation shall be defined on the basis of decisions made by institutions of the Energy Community or the European Union.
- (4) The Agency and the transmission system operator shall cooperate with the Agency for the Cooperation of Energy Regulators and through it with regulatory authorities and transmission system operators in other states to ensure the compatibility of regulatory frameworks between the regions with the aim of creating a competitive electricity market.
- (5) Subject to prior approval of the Agency, the transmission system operator shall participate in the work of one or more integrated systems at the level of one or more regions that cover the two or more contracting parties of the Energy Community or Member States of the European Union and are established for the purpose of transmission capacities allocation and for checking the security of operation.
- (6) Where the vertically integrated transmission system operator participates in a joint undertaking established for implementing such cooperation, the joint undertaking shall establish and implement a compliance programme which sets out the measures to be taken to ensure compliance with the principles of non-discrimination and competition. The vertically integrated transmission system operator shall comply with such a programme, and compliance with the programme shall be independently monitored by the person authorised for monitoring compliance of the vertically integrated transmission system operator.

## **IX FINAL CUSTOMER**

## **General conditions for network use and electricity supply**

### **Article 59**

(1) After obtaining opinions of the transmission system operator and distribution system operator as well as active electricity suppliers, the Agency shall adopt the general conditions for network use and electricity supply.

(2) The general conditions referred to in paragraph 1 of this Article shall stipulate:

1. mutual contractual relations among energy undertakings and network users,
2. obligations and responsibilities of energy undertakings and network users,
3. conditions for metering, billing and payment collection for electricity supplied and capacity,
4. standard methods for billing electricity consumption,
5. conditions for the application of restriction or disconnection of electricity supply,
6. procedures for determining and billing of unauthorised electricity consumption,
7. rules in case of existence of more billing metering points of the final customer,
8. conditions for conclusion and contents of a final customer supply contract,
9. procedure for changing the supplier in case of changes in ownership of the building,
10. maintenance of metering devices, collection and processing of metering data from billing metering points of network users,
11. procedure for handling metering data from billing metering points and points of division between adjacent systems, and
12. rules and conditions regulating relations between suppliers and the transmission system operator or distribution system operator.

(3) The general conditions referred to in paragraph 1 of this Article shall include, in particular, the following measures for the protection of final customers:

1. right to enter into contract with a supplier based on fair and known conditions,
2. right to be notified of the intent to change contractual conditions and the right to terminate the contract after receipt of such notice,
3. obligation of the supplier to notify its users of any portion of the price which is freely negotiated, portion of the price that is regulated and fees and other charges prescribed by special regulations pursuant to the act governing the energy sector, which are set by other competent bodies and/or energy undertakings, no later than during a normal billing period following the increase of fees, and the right of the final customer to terminate the contract if the customer does not accept new conditions,
4. obligation to provide transparent information on current amounts of tariff items and on standard conditions on the use of services,
5. obligation to provide a range of payment options,
6. right to protection of final customers against unfair and misleading practices in sales of services,
7. right to change the supplier free of charge,

8. right to transparent, simple and cost-effective procedures for solving complaints of final customers, with fair resolution of disputes without delay,
  9. obligation to provide information on all rights related to public services,
  10. right to be informed of consumption and costs, and
  11. right to have at their disposal their consumption data, including the right and conditions to give access to it to any other supplier free of charge.
- (4) The conditions for concluding a final customer supply contract referred to in paragraph 2, item 8 of this Article shall contain in particular:
1. method of modifying contractual conditions of supply,
  2. right of the final customer to terminate the contract,
  3. method of notification about any changes of the energy price pursuant to the act governing the energy sector,
  4. method of notification about applicable prices and standard terms and conditions, especially in respect of access and use of services, and
  5. prohibition of requiring the final customer to keep confidential any information from that contract, billings and invoices (especially price, method of price modification and metering data).

## **Electricity supply quality**

### **Article 60**

- (1) The quality of electricity supply shall comprise:
1. service quality,
  2. reliability of supply, and
  3. voltage quality.
- (2) The Agency shall adopt the rules on the quality of electricity supply which stipulate:
1. indicators of the quality of electricity supply,
  2. method of measuring, collecting and publishing indicators of the quality of electricity supply,
  3. extraordinary events in regard of the electricity supply quality,
  4. gradual introduction of general, minimum and guaranteed standards of the electricity supply quality,
  5. method of regulating the quality of electricity supply depending on the selected method of regulating tariffs,
  6. gradual introduction of financial compensation for customers after the introduction of guaranteed electricity supply quality standards,
  7. method, dynamics and scope of reporting and submitting data to the Agency regarding the electricity supply quality,



8. contents of the annual report of the transmission system operator regarding the electricity supply quality,
  9. contents of the annual report of the transmission system operator regarding the electricity supply quality,
  10. contents of the annual report of suppliers regarding the service quality.
- (3) The transmission system operator and distribution system operator shall, pursuant to the rules on the quality of electricity supply, systematically:
1. maintain the level of electricity supply quality,
  2. monitor the electricity supply quality indicators, and
  3. keep records of data required to establish the electricity supply quality indicators.
- (4) All suppliers shall, pursuant to the rules on the quality of electricity supply, systematically:
1. maintain the level of service quality,
  2. monitor the service quality indicators, and
  3. keep records of data required to establish the service quality indicators.
- (5) The transmission system operator, the distribution system operator and all suppliers shall:
- in line with paragraph 2, items 8, 9 and 10 of this Article, once a year publish their reports on the electricity supply quality.
  - in line with paragraph 2, item 7 of this Article, report and submit data on the electricity supply quality to the Agency.
  - harmonize all regulations that are passed on the basis of this Act with the rules on the quality of electricity supply.

## **Final customers**

### **Article 61**

- (1) Final customers shall enjoy protection in terms of reliable, available and sufficient supply of electricity.
- (2) Final customers shall pay for electricity, under contracted and regulated conditions.
- (3) Every final customer shall have the right to choose a supplier of his/her choice, including the right to change the supplier free of charge and the right to have data on own electricity consumption.
- (4) Household customers shall have the right to electricity supply in the scope of universal service.
- (5) Final customers who are entitled to supply in the scope of universal service or select or automatically use that method of supply shall be supplied by the universal service supplier under regulated conditions.
- (6) Due to special economic and social interests, the Government of the Republic of Croatia may by way of a regulation temporarily set lower prices in the portion of electricity price for an individual category of final customers in the scope of universal service.

(7) Association of small and medium-sized customers shall be allowed for the purpose of joint representation before the supplier who is not under the public service obligation in order to secure final customer protection measures, transparency and improvement of contractual conditions, general information and mechanisms of dispute resolution.

(8) Large non-household customers shall have the right to contract electricity supply simultaneously with several suppliers.

(9) In case of technical or other disturbances in electricity supply that are not caused by the final customer's facilities, the final customer shall have the right to elimination of these disturbances in the shortest period possible.

(10) The shortest period in which an electricity undertaking is obliged to eliminate disturbances in electricity supply to the final customer referred to in paragraph 9 of this Article shall be understood as the period in which a disturbance can be eliminated in the fastest way, in accordance with standards on carrying out appropriate works, and not longer than 24 hours from receiving a notice of disturbance, except in extraordinary cases when it is objectively not possible to do it in that period.

(11) The disturbances in electricity supply referred to in paragraph 9 of this Article shall not include disruptions resulting from implementing supply restriction measures that are taken in case of disturbances in the electricity market.

(12) Final customers shall use electricity under conditions, in the manner and for the purposes stipulated by this Act, the act governing the energy sector, general conditions for network use and electricity supply, the supplier's conditions, Grid Code for the transmission system, Grid Code for the distribution system and contracts on the use of transmission/transport and distribution network and other regulations.

(13) Any arbitrary connection of facilities, plants, devices or installations to the transmission or distribution network and their commissioning shall be prohibited.

(14) Final customers shall be obliged to enable access of authorised persons of the competent electricity undertakings to metering devices and installations, as well as the connection point for the purpose of:

1. performing readings, checking the proper working order, eliminating failures, replacement and maintenance of devices and relocation of metering points outside the facility or to the border of ownership, or
2. disconnecting electricity supply in cases when the final customer is using electricity without authorisation or fails to pay a bill for delivered electricity in accordance with the established terms and conditions.

## **Final customer supply contract**

### **Article 62**

- (1) The rights and obligations between each supplier and final customer shall be regulated by a final customer supply contract.
- (2) The conclusion and contents of a final customer supply contract shall be regulated in more detail by the general conditions for network use and electricity supply and by the supplier's conditions, pursuant to the provisions of this Act and the act governing the energy sector.

- (3) A supplier shall ensure that the terms and conditions of a final customer supply contract which the supplier offers are harmonised with the general conditions for network use and electricity supply. The contract terms and conditions shall be given in clear and comprehensible language and shall not include non-contractual barriers to the exercise of final customers' rights, for example excessive contractual documentation. A supplier shall ensure that final customers are protected against unfair or misleading selling methods.
- (4) A supplier shall publish in an appropriate manner the portion of the price that is regulated and fees and other charges prescribed by special regulations pursuant to the act governing the energy sector, and suppliers under the public service obligation shall also publish the amounts of tariff items for final customers.
- (5) A supplier shall conclude a final customer supply contract in a written form. The final customer supply contract shall contain at least:
  1. name and address of the supplier,
  2. services provided by the supplier, including the time of initial connection and the quality of supply,
  3. types of maintenance service offered, if any,
  4. means by which the latest information can be obtained on all applicable prices and fees, including maintenance charges,
  5. term of the contract, conditions for renewal and termination of the contract or services,
  6. existence of any rights to terminate the contract,
  7. method of compensation if contracted service quality levels are not met including inaccurate and delayed billing, and
  8. method of settlement of disputes when the Agency is deciding on complaints of final customers in case of disconnection of electricity supply.
- (6) The provisions of a final customer supply contract shall be fair and in a clear, simple and unambiguous way comprise the rights and obligations of the supplier and the customer, and every supplier shall ensure that the conditions of supply are well-known in advance to its final customers. Information on the contract conditions shall be provided to final customers prior to the conclusion of the contract.
- (7) A final customer supply contract may not in any way deny or impede the final customer's right to terminate or cancel the contract because of exercising his/her right to change the supplier nor may any additional financial obligations be imposed on that basis.
- (8) A supplier who is not under the public service obligation may conclude final customer supply contracts under special sale conditions, provided that in such cases the supplier is obliged to act in the manner in which the offered sale conditions or prices do not distort competition or equal position of customers in the electricity market.

### **Obligations of suppliers towards final customers**

#### **Article 63**

- (1) A supplier shall ensure a single information point in which its final customers, in addition to information on their general rights, applicable regulations and dispute resolution methods, may obtain:

1. clear information on variable energy prices and on standard terms and conditions, in respect of access to and use of services,
  2. information on potential different payment methods that may reflect the costs of the supplier due to different payment systems,
  3. information that changing the supplier is free of charge,
  4. instructions for using transparent and simple and inexpensive procedures for dealing with their complaints - in particular, each supplier shall ensure that its final customers have the right to a good standard of service and complaint handling in a manner that enables disputes to be settled fairly and promptly, within 3 months, with provision, where warranted, for a system of compensation, and
  5. precise information on their actual electricity consumption and costs frequently enough to enable them to regulate their own electricity consumption – that information shall be given by using a sufficient time frame, which takes account of the capability of the final customer's installed electricity meter and the method of electricity consumption, with due account taken of the cost-efficiency of such measures and without any additional costs charged to final customers for that service.
- (2) A supplier of customers in the scope of universal service shall, with respect to the single information point, also have the following obligations:
1. establish user centres for providing information, solving inquiries, requests and complaints of users, whether in person, by phone or electronically,
  2. establish the complaints committee for electricity supply pursuant to the provisions of the act governing consumer protection at the level of suppliers of customers in the scope of universal service, to which a complaint related to the decision made by a branch office may be submitted,
  3. adjust working hours of user centres to the needs of users, whereas the working hours of a user centre shall at least once a week be until 8 p.m., and users may schedule meetings by phone or electronically, and
  4. intercede with the transmission system operator or distribution system operator in regard of complaints and information related to aspects regulated by the contract on the use of transmission and distribution network.
- (3) A supplier shall, in cooperation with the Agency, take necessary steps in order to make available to its final customers a copy of the energy consumer checklist that contains practical information relating to energy consumer rights and to publish it.
- (4) In case of changing prices and other supply conditions, a supplier shall inform its final customers at least 15 days prior to applying the modified prices or supply conditions, including information on their right to terminate the contract, except in cases of lowering prices or providing more favourable supply conditions. A supplier shall ensure that final customers are free to withdraw from contracts if they do not accept the new conditions notified to them.
- (5) A supplier shall prepare and publish its own programme of measures for:
1. providing assistance to final customers in meeting their due contractual obligations in order to prevent the disconnection of supply,
  2. supporting the supply of final customers in places distant from urban centres,

3. supporting the system of incentivizing electricity produced from renewable energy sources and cogeneration whose production is incentivised, and
  4. supporting energy efficiency.
- (6) A supplier shall regularly inform its final customers about energy efficiency improvement measures in final energy consumption.
- (7) A supplier shall calculate and issue a bill and charge a fee for incentivizing electricity produced from renewable energy sources and cogeneration whose production is incentivised to all its final customers. In accordance with the concluded contracts, the supplier may calculate, issue a bill for and charge:
1. a portion of price that is freely negotiated,
  2. a portion of price that is regulated, and
  3. fees and other charges prescribed by special regulations.
- (8) A supplier shall charge electricity and services on the basis of a clear and understandable bill.
- (9) A supplier shall regularly inform its final customers about the electricity supply, including environmental protection issues. The information that each supplier is obliged to provide to its final customers shall be in line with the Agency's requirements. A supplier shall on the bill, or attached to the bill, and in promotional materials available to final customers, at least once a year state the following:
1. the share of each individual energy source in the overall sources used to meet the needs of final customers,
  2. point to the existing sources of information, for example, web pages, where information related to environmental impact is available to the public, in terms of greenhouse gas emissions and radioactive waste disposal as a consequence of electricity generation from all fuels for the entire production used in the preceding year, and
  3. inform final customers on their rights in case of dispute.
- (10) The data shall correspond to data from the realized energy balance of the Republic of Croatia for the previous year.
- (11) The Agency shall take necessary steps to ensure that information provided by a supplier to its final customers is reliable and given in a clear and comparable manner at the level of the entire electricity market in the Republic of Croatia. The Agency may decide to make available to electricity market participants elements of that information, provided that commercially sensitive information on individual participants or individual transactions is not released.
- (12) A supplier shall take necessary steps to protect interests of its final customers and efficiently solve complaints of its final customers, including out-of-court settlements. The handling of those complaints shall be monitored by the Agency under the provisions of this Act, the act governing the regulation of energy activities and other regulations and rules prescribed by the Agency.

### **Disconnection of supply to final customers**

## **Article 64**

- (1) Under a final customer supply contract, the supplier may demand from the transmission system operator or distribution system operator disconnection of supply to the final customer due to the final customer's failure to meet his/her contractual obligations, except customers under special protection pursuant to the act governing the energy sector. In the period of supply disconnection, the final customer shall have obligations related to the use of network.
- (2) If the final customer fails to meet his/her obligations stipulated in the final customer supply contract or in a bill for delivered electricity, the supplier shall previously warn the final customer that, within a period which may not be shorter than 15 days from the date of delivering the notice, he/she should pay due liabilities or reach an agreement on meeting his/her obligations.
- (3) If the final customer fails to meet his/her obligations within the prescribed period, the supplier may demand disconnection of electricity supply in writing from the transmission system operator or the distribution system operator to whose system the final customer's facility is connected. The supplier shall pay for the service of disconnection of electricity supply.
- (4) The transmission system operator or distribution system operator shall, based on the submitted supplier's request and provided that it is not related to a customer under special protection pursuant to the act governing the energy sector, disconnect supply of electricity, whereas disconnection may not start on Friday, Saturday or Sunday, on a public holiday or a day before holiday.
- (5) If the final customer has paid all his/her liabilities towards the supplier, the supplier shall within 24 hours take measures to restore supply of that final customer and shall immediately or within 24 hours submit a request to the transmission system operator or distribution system operator to restore supply. The transmission system operator or distribution system operator shall fulfil the supplier's request immediately or within 24 hours. The supplier shall pay for the service of restoration of electricity supply.
- (6) The transmission system operator or distribution system operator shall restore supply to the final customer within 24 hours if it is established that the electricity supply to the final customer was disconnected without grounds.
- (7) The transmission system operator or distribution system operator may disconnect supply to the final customer due to non-payment of the regulated portion of the price.
- (8) When the transmission system operator or distribution system operator establishes that the final customer's facilities, devices or installations are connected to its network without authorisation, without energy consumption or when energy consumption may not be determined, it shall immediately disconnect such facilities from the transmission or distribution system and notify the Agency thereof.
- (9) The transmission system operator or distribution system operator to whose network the network user's facilities are connected shall disconnect that network user if he/she does not comply with the Grid Code for the transmission system or the Grid Code for the distribution system, after prior notice to the user and approval of the Agency.
- (10) A supplier shall prepare and at least once a year publish the number of final customers whose supply was disconnected at their request, reasons for supply disconnection and other data pursuant to the general conditions for network use and electricity supply.

### **Customers under special protection in the scope of universal service**

## **Article 65**

(1) Household customers who are entitled to supply in the scope of universal service or select or automatically use that method of supply and who obtained from the body competent for social welfare a decision on the status of vulnerable customer shall have the right to special protection pursuant to the provisions of this Act, the act governing the energy sector and regulations on health protection and social welfare.

(2) The body competent for social welfare, which established the vulnerable status or change in that status shall, within eight days, inform the customer, distribution system operator and the vulnerable customer's supplier of any change in the customer's status.

(3) The body competent for social welfare shall plan for and secure funds for payment of delivered electricity to the vulnerable customer, that is, pay electricity to the universal service supplier in case when the vulnerable customer fails to pay electricity to the universal service supplier.

(4) Protected customers shall be entitled to supply of specific volume of electricity in case of emergency situations pursuant to the provisions of the act governing the energy sector. The supply of protected customers in emergency situations shall be carried out by the guaranteed supplier. In case of an emergency, for the period of its duration electricity producers shall first offer the generated electricity to the guaranteed supplier.

## **X ACCESS TO AND UNBUNDLING OF ACCOUNTS**

### **Right of access to accounts**

#### **Article 66**

(1) The Agency shall have the right of access to the accounts of electricity undertakings pursuant to the provisions of this Article in the extent that is necessary to carry out its functions.

(2) The Agency shall preserve the confidentiality of commercially sensitive information that it acquired by access to accounts referred to in paragraph 1 of this Article.

(3) At a written request of the competent state authority, the Agency shall submit the data referred to in paragraphs 1 and 2 of this Article.

### **Unbundling of accounts and financial reports**

#### **Article 67**

(1) Electricity undertakings shall prepare and keep their accounts and financial reports pursuant to the provisions of this Act, the act governing the energy sector and regulations on accounting of entrepreneurs.

(2) Electricity undertakings shall, in their internal accounting, keep separate accounts and draw up financial reports for each of their electricity-related activities of electricity transmission, electricity distribution and electricity supply under the public service obligation separate from other electricity and non-electricity activities as they would be required to do if the electricity-related activities in question were carried out by separate electricity undertakings, with a view to avoiding discrimination, cross-subsidisation and distortion of competition. Revenue from ownership of the transmission or distribution system shall be

separately specified in the accounts and financial reports.

(3) Electricity undertakings referred to in paragraph 2 of this Article shall, regardless of their ownership of the transmission or distribution system or regardless of the legal form which such electricity undertakings have pursuant to the provisions of the act governing companies, draw up and publish their annual financial reports and perform an annual audit of its operations in accordance with relevant accounting regulations and standards and pursuant to special regulations on auditing.

(4) The audit referred to in paragraph 3 of this Article shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph 2 of this Article is respected.

(5) Electricity undertakings referred to in paragraph 3 of this Article shall submit to the Agency:

1. annual statutory financial reports within 20 days from the date prescribed by law,
2. annual financial reports for each of their electricity-related activities of electricity transmission, electricity distribution and electricity supply under the public service obligation, separate from other electricity and non-electricity activities within the period stipulated in item 1 of this paragraph, and
3. other financial reports whose form, contents and deadline for submission shall be prescribed by the Agency.

## **XI NETWORK ACCESS**

### **Network access**

#### **Article 68**

(1) The transmission system operator and distribution system operator shall provide non-discriminatory access to network users according to the principle of regulated third party access, pursuant to the general conditions for network use and electricity supply, connection conditions, Grid Code for the transmission system and Grid Code for the distribution system and by ensuring objective and non-discriminatory prices for network use.

(2) The transmission system operator or distribution system operator shall be competent for the construction of a network user connection and creation of technical conditions in the transmission or distribution network.

(3) Data on possibilities for the use of the transmission or distribution system shall be public, updated once a year and published in an appropriate manner.

(4) The transmission system operator or distribution system operator may deny or restrict access to the network due to limited technical or operating capacity of the system, due to maintenance works or development of the system or due to a threat to human life or property. After denying or restricting network access, network users who have been denied or restricted access to the network shall be given reasons and the period of denying access as well as activities aimed at removing the listed reasons, supported by written evidence based on objective, non-discriminatory, technically and economically justified criteria.

(5) The network user who has been denied or restricted access to the network or who is not satisfied with the access requirements may file an appeal to the Agency. No appeal shall be permitted against the decision of the Agency, but an administrative dispute may be initiated



before the competent administrative court, which shall not postpone its enforcement. Proceedings before the administrative court shall be urgent.

## **XII RECIPROCITY PRINCIPLE**

### **Reciprocity**

#### **Article 69**

In order to avoid imbalance in the opening of electricity markets, the Republic of Croatia may request that the European Commission, taking into account the situation in the market and the common interest, requires a Member State whose market openness is lower to allow a supplier from that country access to the electricity market of the Republic of Croatia, or a supplier from the Republic of Croatia access to a customer of that country.

## **XIII CROSS-BORDER TRANSMISSION**

### **Cross-border transmission**

#### **Article 70**

(1) Pursuant to international agreements binding upon the Republic of Croatia, the transmission system operator shall carry out cross-border transmission of electricity through the transmission network under terms and conditions stipulated in those agreements, and the technical capacity of cross-border transmission lines as well as of the transmission network as a whole, and shall ensure stability of electricity supply.

(2) The amount of the funds collected for the use of cross-border transmission lines shall be settled between the transmission system operator and system operators in other countries involved in the transit of electricity, pursuant to this Act, agreed procedures and all applicable international agreements or obligations. Prices may not be distance-related.

(3) Prices for use of the transmission network, including cross-border transmission lines, shall provide appropriate and effective locational signals. Prices for use of the transmission network or cross-border transmission lines charged to producers and/or final customers shall be applied regardless of the country of destination and origin of the electricity as specified in the underlying commercial arrangement, irrespective of the amount of funds arising from the congestion management methods applied pursuant to this Act.

(4) The Agency shall, in its annual report to the Croatian Parliament, report on data related to cross-border flows of electricity and ten-year development plans of operators, pursuant to internationally assumed obligations of the Republic of Croatia or, upon request, it shall submit those data also to competent bodies of the Energy Community and the European Union.

## **XIV SUPERVISION**

### **Administrative and inspectional supervision over the implementation of this Act**

## **Article 71**

- (1) Administrative supervision over the implementation of this Act and regulations passed on the basis of this Act shall be carried out by the Ministry. Inspectional supervision over the implementation of this Act shall be carried out by the State Inspectorate.
- (2) If competent inspectors of the State Inspectorate establish, during inspectional supervision, that an electricity undertaking is not performing the electricity-related activity, and that a final customer of electricity is not using electricity pursuant to the provisions of this Act and the regulations passed on the basis of this Act, in addition to the authorities they have pursuant to general regulations, they shall also be authorized to by a decision:
1. order the elimination of the irregularities and deficiencies found, setting the deadline for their elimination,
  2. forbid the construction of the generation facility if the energy approval for its construction has not been obtained, and
  3. order the suspension of further construction or use of an energy facility, or the suspension of energy supply or energy use, if the equipment for the energy facility is not manufactured anymore, and the facilities are not being constructed, used or maintained in accordance with the documentation approved or confirmed pursuant to special technical or other regulations, and if, for that reason, it poses an immediate threat for the stability and safety of energy facilities, health or life of persons, or safety of traffic or of neighbouring buildings.

## **The Agency's supervision over the work of electricity undertakings**

### **Article 72**

- (1) The Agency shall monitor and analyse the work and operations of energy undertakings in terms of:
1. actual costs and revenues of energy undertakings that carry out activities for which the Agency sets, or gives prior approval to, prices and fees,
  2. quality of electricity supply, including the reliability of supply, voltage quality and service quality,
  3. application of the rules on electricity market organisation and behaviour of participants in that market, including competition and customer rights protection,
  4. application of the general conditions for network use and electricity supply,
  5. application of Grid Code for the transmission or distribution system,
  6. application of regulations related to cross-border energy exchanges. as well as the work and operations of undertakings that perform auction-based allocation of cross-border transmission capacities or organise purchase and sale of electricity,
  7. application of regulations governing the publishing of data on cross-border transmission capacities and on the use of transmission or distribution network,
  8. unbundling of activities pursuant to the provisions of this Act,
  9. programme for ensuring and applying the principles of transparency, objectivity and non-discrimination in the work of the transmission system operator and

distribution system operator in view of applying non-discriminatory conditions for access to networks and use of networks they operate, and

10. conditions, unit prices and fees for connection to the transmission and distribution network of new producers of electricity from renewable energy sources and cogeneration.

(2) The Agency shall monitor and analyse the work and operations of electricity undertakings in terms of meeting the conditions prescribed by the licence.

(3) If it establishes that the electricity undertaking does not meet the conditions prescribed by the licence, or works and operates contrary to the conditions prescribed by the licence, the Agency shall order the undertaking to eliminate the established irregularities and set the deadline for their elimination, or take other measures pursuant to the provisions of this Act.

(4) By monitoring and analysing the work and operations referred to in paragraphs 1 and 2 of this Article, the Agency shall supervise:

1. regularity of the work and operations or abuse of position of electricity undertakings in the electricity market,
2. accuracy and correctness of presenting operating costs that may affect the formation of prices for use of the transmission and distribution network, and
3. compliance with obligations prescribed by this Act, general acts, methodologies and tariff systems passed by the Agency under this Act, acts governing the energy sector and the regulation of energy activities, or general acts subject to prior approval of the Agency under this Act, acts governing the energy sector and the regulation of energy activities.

(5) If the supervision referred to in paragraphs 1 and 4 of this Article establishes deviations or irregularities that caused or may cause financial consequences for final customers and electricity market participants, the Agency shall:

1. order the electricity undertaking to correct the established irregularities without delay or upon the next issuing of approval on justified costs and revenues and to set appropriate prices for use of the transmission or distribution network,
2. amend the proposed prices and fees upon issuing a prior approval,
3. initiate misdemeanour proceedings, and
4. inform the competent competition authority on issues concerning the carrying out of electricity-related activities in the market which are related to preventing, restricting or distorting competition.

(6) The report on the results of analyses and supervisions referred to in paragraphs 1, 2 and 4 of this Article shall be an integral part of the Agency's annual report.

(7) At the request of the Agency's authorised person, the electricity undertaking shall provide premises and access to business documentation required for the supervision of its work and operations.

(8) The Agency shall keep the confidentiality of commercial and other sensitive information it obtained in performance of its tasks pursuant to the law and the Agency's rules.

(9) Electricity undertakings that carry out activities for which the Agency sets, or gives prior approval to, prices and fees or prices of services or products shall, in periods not longer than three years, determine the structure and value of property and equipment used for carrying out those activities, pursuant to international accounting standards.

(10) Where appropriate, the Agency may, by employing an independent assessor, carry out supervision or determine the structure and value of property and equipment referred to in paragraph 9 of this Article.

## **XV MISDEMEANOUR PROVISIONS**

### **Article 73**

(1) A natural person or a natural person who is an electricity undertaking shall be fined for misdemeanours from HRK 1,000.00 to 50,000.00 in the event that it:

1. fails to secure the confidentiality of commercially sensitive information that he/she obtained from other electricity undertakings and final customers pursuant to Article 9 and Article 14, paragraph 9 of this Act,
2. intentionally or negligently fails to issue or issues a false or misleading statement to the Agency or another competent authority within the performance of their duties pursuant to this Act,
3. fails to ensure priority taking over of the entire volume of electricity delivered to the network from eligible producers pursuant to this Act (Article 11, paragraph 7; Article 29, paragraph 9 and Article 39, paragraph 12 of this Act),
4. fails to obtain the energy approval for new capacities pursuant to the provision of Article 12 of this Act,
5. starts the construction of a direct line without prior approval of the Agency (Article 27 of this Act)
6. fails to maintain the electricity supply quality indicators pursuant to Article 60 of this Act,
7. fails to construct a network user connection in the manner prescribed in Article 29, item 4 and Article 39, item 4 of this Act,
8. fails to submit or submits inaccurate data to the electricity market operator on the electricity delivered to the network from eligible producers (Article 29, item 11; Article 39, item 11),
9. engages a generation facility intended for occasional use (Article 28, paragraph 12 of this Act),
10. fails to establish the complaints committee pursuant to Article 30, item 22; Article 40, item 8 and Article 63, paragraph 3, item 2 of this Act,
11. fails to prepare and submit to the Agency for approval within the period referred to in Article 30, item 35 or Article 40, item 16 of this Act the annual plan of transmission or distribution network losses for the next year,
12. fails to adopt development plans (ten-year, three-year and annual investment plans) and fails to publish them within the prescribed periods (Article 30, items 36, 37 and 38; Article 40, items 17, 18 and 19 of this Act),

13. fails to prepare development plans in accordance with the Energy Strategy and the Strategy Implementation Programme (Article 30, item 36; Article 40, item 17 of this Act),
14. fails to submit to the Agency for prior approval any requests, including explained information on all details, with regard to all planned and unplanned changes in the financial framework of annual investment plans during a year (Article 30, item 39; Article 40, item 20 of this Act),
15. fails to prepare and submit to the Agency the prescribed annual reports (Article 32, Article 41 of this Act),
16. fails to implement measures set by the Agency on the basis of the submitted prescribed annual reports (Article 32, Article 41 of this Act),
17. fails to submit data to the competent electricity undertaking on its request (Article 33, Article 42 of this Act ),
18. fails to apply the provisions of the Grid Code for the transmission system or Grid Code for the distribution system (Articles 35, Article 44 of this Act),
19. fails to ensure the harmonized operation of the distribution system with the transmission system and interconnected systems and network user facilities (Article 39, item 8 of this Act),
20. fails to implement measures set by the Agency on the basis of inspecting the relevant data relating to all contracted transactions with wholesale customers and the transmission system operator with regard to purchase and sale of electricity, including electricity derivatives, for the purpose of securing the principle of protecting competition in the wholesale market (Article 45, paragraphs 3 and 4 of this Act),
21. carries out an electricity-related activity which is performed as a public service without prior authorisation for its carrying out (Article 5, paragraph 5 of this Act),
22. fails to apply the provisions of the general conditions for network use and electricity supply referred to in Article 59 of this Act,
23. fails to purchase electricity produced from renewable energy sources and cogeneration whose production is incentivized from the electricity market operator (Article 11, paragraph 7 of this Act),
24. fails to act in accordance with the rules on changing the supplier (Article 47 of this Act),
25. fails to allow the final customer to change the supplier within the period referred to in Article 47, paragraph 1 of this Act,
26. fails to ensure electricity supply in the scope of universal service to final customers (Article 48 of this Act),
27. fails to act in accordance with the rules on using the register of guarantees of origin of electricity (Article 53, paragraph 6, item 15 of this Act),
28. fails to act in accordance with the rules on electricity market organisation (Article 55 of this Act),
29. fails to participate in the electricity market in the manner prescribed in Articles 56 and 57 of this Act,

30. fails to implement measures for the promotion of effective competition set by the Agency on the basis of investigating the functioning of the electricity market (Article 57 of this Act),
  31. concludes a final customer supply contract contrary to the provisions of Article 62 of this Act,
  32. concludes a final customer supply contract that does not include all minimum elements referred to in Article 62, paragraph 5 of this Act,
  33. fails to ensure a single information point pursuant to Article 63, paragraph 1 of this Act,
  34. fails to provide to its final customers information on their actual consumption pursuant to Article 63, paragraph 1, item 5 of this Act,
  35. fails to deliver information on a final closure account following any change of supplier within the period referred to in Article 63, paragraph 2 of this Act,
  36. fails to deliver to its final customers a copy of the energy consumer checklist (Article 63, paragraph 3 of this Act),
  37. fails to inform its final customers on changing prices and other supply conditions pursuant to Article 63, paragraph 4 of this Act,
  38. fails to show on the bill, or attached to the bill, and in promotional materials the required information and data (Article 63, paragraph 9 of this Act),
  39. fails to notify the final customer on the disconnection of electricity supply within the prescribed period (Article 64, paragraph 2 of this Act),
  40. fails to restore supply to the final customer within 24 hours if it is established that the electricity supply to the final customer was disconnected without grounds (Article 64, paragraph 6 of this Act),
  41. fails to apply the provisions on keeping, unbundling and auditing of accounts of energy activities (Articles 66, Article 67 of this Act),
  42. denies access to the network without grounds contrary to the provision of Article 69 of this Act,
  43. fails to proceed according to the decision of competent inspectors referred to in Article 70 of this Act.
- (2) A legal person or a legal person who is an energy undertaking shall be fined from HRK 20,000.00 to 500,000.00 for the misdemeanours referred to in paragraph 1 of this Article.
- (3) A responsible person of the natural or legal person or of an energy undertaking shall be fined from HRK 300.00 to 50,000.00 for the misdemeanours referred to in paragraph 1 of this Article.
- (4) In addition to a cash fine, in case of committing several misdemeanours or repeating within one year misdemeanours referred to in paragraph 1 of this Article, the electricity undertaking referred to in paragraphs 1 and 2 of this Article may be sanctioned by suspension from carrying out the same activities for up to one year, and the electricity undertaking's responsible person may be barred from carrying out the same activities for a period of up to one year.

### **Serious violations that distort competition in the electricity sector**

#### **Article 74**

(1) A cash fine in the amount of up to 10 % of its total revenue realised in the previous business year shall be imposed on the transmission system operator or distribution system operator if it intentionally or due to extreme negligence discriminates between network users.

(2) A cash fine in the amount of up to 10 % of its total revenue realised in the previous business year shall be imposed on the transmission system operator or distribution system operator if it:

1. prevents the person authorised for monitoring compliance in the performance of his/her duties,
2. refuses connection to the electricity network with an explanation of possible future limitations to available network capacities that does not correspond to actual circumstances,
3. fails to meet its obligations regarding the provision of information pursuant to Regulation (EC) No 714/2009 or its reporting duties,
4. fails to proceed in accordance with the Agency's decisions, including decisions of the Agency for the Cooperation of Energy Regulators pursuant to international obligations assumed by the Republic of Croatia based on Regulation (EC) No 714/2009, or
5. fails to meet its obligations under the provisions of Annex to Regulation (EC) No 714/2009 pursuant to international obligations assumed by the Republic of Croatia.

(3) If the culpable party is the transmission system operator or distribution system operator who is an integral part of the vertically integrated undertaking, a cash fine may be imposed on the annual revenue of the vertically integrated undertaking.

#### **Misdemeanour order of the Agency**

#### **Article 75**

(1) The Agency shall submit an indictment proposal to initiate misdemeanour proceedings if it established a misdemeanour by:

1. carrying out control of the transmission system operator or distribution system operator pursuant to Article 11, paragraph 7 of this Act or control of the electricity market operator concerning the taking over of the total electricity produced by eligible electricity producers, subject to submitting credible documentation,
2. carrying out supervision over a network user at proposal of another network user or by anonymous application,
3. carrying out the Agency's supervision and other powers under its competence, of which official notes or minutes were taken.

(2) The Agency may propose the initiation of misdemeanour proceedings referred to in paragraph 1 of this Article for the misdemeanours prescribed in Article 73 of this Act.

### **XVI TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 76**

- (1) Hrvatska elektroprivreda d.d., which on the date of 3 September 2009 was the owner of the transmission system, shall apply one of the models of unbundling of the transmission system operator pursuant to the provisions of Articles 14 - 24 of this Act.
- (2) Electricity undertakings which on the date of entry into force of this Act perform electricity-related activities within the meaning of this Act shall harmonise their internal organisation, work and operations with the provisions of this Act at the latest within 12 months from the date of entry into force of this Act.
- (3) Daughter companies and Hrvatska elektroprivreda d.d., as the mother company of the vertically integrated undertaking (HEP Group), shall continue to carry out regulated electricity-related activities as public services for electricity in the Republic of Croatia, from the date of entry into force of this Act.
- (4) Daughter companies and Hrvatska elektroprivreda d.d., as the mother company of the vertically integrated undertaking, shall carry out all activities necessary to meet the requirements for unbundling of the transmission system operator within 12 months from the date of entry into force of this Act.
- (5) Hrvatska elektroprivreda d.d., as the mother company, shall execute the transfer of assets to the transmission system operator according to the state of assets in business accounts as at 31 December 2012, within 90 days from the date of entry into force of this Act.
- (6) The company HEP - Operator prijenosnog sustava d.o.o. for electricity transmission shall be renamed into the company Hrvatski operator prijenosnog sustava d.o.o., abbreviated HOPS d.o.o. within the period referred to in paragraph 4 of this Article.
- (7) The assets owned by Hrvatska elektroprivreda d.d. on the date of entry into force of this Act, which are an integral part of the transmission network, including connections and measuring equipment on billing metering points, but excluding the assets referred to in paragraph 4 of this Article, shall be transferred to the ownership of the transmission system operator, pursuant to the provisions of this Act, within 90 days from the date of entry into force of this Act.
- (8) The assets owned by Hrvatska elektroprivreda d.d. on the date of entry into force of this Act, which are an integral part of the distribution network, including connections and measuring equipment on billing metering points, shall be transferred to the competence of the distribution system operator, pursuant to the provisions of this Act, within six months from the date of entry into force of this Act.
- (9) The assets or the equipment, facilities and plants that are not owned by the vertically integrated undertaking on the date of entry into force of this Act, which are an integral part of the transmission or distribution network, including connections and measuring equipment on billing metering points of network users, shall be transferred to the ownership of the transmission system operator or to the competence of the distribution system operator, pursuant to the provisions of this Act, within 12 months from the date of entry into force of this Act.
- (10) The transmission system operator shall harmonize the billing metering points in the interface of the transmission and distribution network and in the interface of the transmission network and network users, pursuant to the Grid Code for the transmission system, within two years from the date of entry into force of this Act.
- (11) The transmission system operator shall, pursuant to Article 60 of this Act, establish permanent supervision of the quality of electricity in the interface of the transmission and



distribution network and in the interface of the transmission network and network users within two years from the date of entry into force of this Act.

(12) The transmission system operator and distribution system operator shall conclude a contract on mutual relations for every facility which is co-owned, related to the use and operation of the plants, within 12 months from the date of entry into force of this Act.

### **Article 77**

(1) A supplier who until the entry into force of this Act was supplying eligible household customers referred to in Article 32, paragraph 2 of the Electricity Market Act (Official Gazette 177/04, 76/07, 152/08, 14/11 and 59/12) shall on the date of entry into force of this Act continue to supply final customers under the supply conditions in the scope of universal service until the adoption of the decision referred to in Article 5, paragraph 5 of this Act.

(2) A supplier who until the entry into force of this Act was supplying eligible customers referred to in Article 32, paragraph 3 of the Electricity Market Act (Official Gazette 177/04, 76/07, 152/08, 14/11 and 59/12) shall, within 30 days from the date of entry into force of this Act, continue to supply final customers under the supply conditions in the scope of guaranteed service.

(3) A supplier who until the entry into force of this Act was supplying eligible customers referred to in Article 32, paragraph 4 of the Electricity Market Act (Official Gazette 177/04, 76/07, 152/08, 14/11 and 59/12) shall on the date of entry into force of this Act continue to supply final customers under the supply conditions in the scope of guaranteed service until the adoption of the decision referred to in Article 5, paragraph 5 of this Act.

(4) The Agency shall, in cooperation with the competent competition authority, carry out investigations into the functioning of the electricity market pursuant to Article 57, paragraph 1 of this Act.

### **Article 78**

(1) The Government of the Republic of Croatia and the minister shall adopt or harmonize with this Act the regulations referred to in Article 12, paragraph 3 and Article 13, paragraph 5 of this Act within 12 months from the date of its entry into force.

(2) Until the date of entry into force of the regulations referred to in paragraph 1 of this Article, regulations which regulate the related issues shall apply, unless contrary to the provisions of this Act.

(3) The Agency and electricity undertakings shall adopt general acts referred to in Article 26, paragraph 1 of this Act, Article 27, paragraph 2 of this Act, Article 28, paragraph 8 of this Act, Article 30, paragraph 6 or Article 35, paragraph 3 of this Act, Article 30, items 12, 26 and 48 of this Act, Article 40, item 10 of this Act or Article 44, paragraph 3 of this Act, Article 40, items 23 and 24 of this Act, Article 46, paragraph 9, item 3 of this Act, Article 47, paragraph 3 of this Act, Article 52, paragraph 8 of this Act, Article 52, paragraph 6, item 15 of this Act, Article 53, paragraph 5 of this Act, Article 53, paragraph 6, item 4 or Article 55, paragraph 3 of this Act, Article 59, paragraph 1 of this Act and Article 60, paragraph 2 of this Act within 12 months from the date of entry into force of this Act.

(4) Until the date of entry into force of the general acts referred to in paragraph 3 of this Article, general acts which regulate the related issues and are in force on the date of entry into force of this Act shall apply, unless contrary to the provisions of this Act.

### **Article 79**

Proceedings initiated prior to the entry into force of this Act shall be completed under the provisions of the Electricity Market Act (Official Gazette 177/04, 76/07, 152/08, 14/11 and 59/12).

### **Article 80**

- (1) On the date of entry into force of this Act, all electricity customers shall have the right to free selection of a supplier in the electricity market.
- (2) On the date of entry into force of this Act, all household electricity customers shall have the right to supply in the scope of universal service.
- (3) A customer shall continue to be supplied by the supplier who supplied him/her until the entry into force of this Act, unless that customer changes the supplier.
- (4) A supplier who supplies the customer that exercised his/her right to free choice of the supplier shall freely form electricity prices.

### **Article 81**

The Electricity Market Act (Official Gazette 177/04, 76/07, 152/08, 14/11 and 59/12) shall cease to be effective from the day of entry into force of this Act.

### **Article 82**

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette, except for the provisions of this Act which shall enter into force on the date of accession of the Republic of Croatia to the European Union, and are contained in:

- Article 6, paragraph 3, in the part related to obligations towards the European Commission,
- Article 12, paragraph 2, item 11,
- Article 13, paragraph 7, in the part related to publication in the Official Journal of the European Union,
- Article 15, paragraph 3, item 4, related to applying Regulation (EC) No 714/2009,
- Article 23, paragraph 2, item 3, and paragraphs 4 - 9, in the part related to applying Regulation (EC) No 714/2009 and the European Commission,
- Article 24, paragraph 2, in the part related to obligations towards the European Commission,
- Article 24, paragraphs 3 and 4,
- Article 25, paragraph 5,
- Article 30, items 42, 43 and 44,
- Article 45, paragraph 3, in the part related to the European Union,
- Article 46, paragraph 19, in the part related to the European Union,
- Article 51, in the part related to the European Union,
- Article 58, paragraphs 2 - 5, in the part related to the European Union, and
- Article 70, paragraph 4 of this Act.