

Pursuant to the Article 19 paragraph 1 of Law on Government of Federation of Bosnia and Herzegovina (Official Gazette of Federation of BiH, No. 1/94, 8/95, 58/02, 19/03, 2/06 and 8/06) and Article 79 paragraph 1 of Law on Electricity in Federation of Bosnia and Herzegovina (Official Gazette of Federation of BiH, No. 66/13). Government of Federation of Bosnia and Herzegovina, upon the suggestion of Federal Ministry of energy, mining and industry, at 105<sup>th</sup> session held on 27 March 2014 adopted the following

**DECREE ON  
PROCEDURE, CRITERIA, FORM AND CONTENTS  
OF THE REQUEST FOR ISSUING ENERGY LICENSE FOR BUILDING NEW AND  
RECONSTRUCTING EXISTING GENERATING PLANTS**  
(Official Gazette of Federation of Bosnia and Herzegovina, No. 27/14)

**CHAPTER I - GENERAL PROVISIONS**

Article 1  
(Purpose and scope)

(1) This Decree prescribes:

- 1) procedure of issuing decision based on request for issuing energy license for building new or reconstruction of existing generating plants,
- 2) criteria for approval of investment projects for building new generating facilities and conditions for issuing energy license,
- 3) contents and form of request for issuing energy license,
- 4) energy license contents, form and validity,
- 5) requests for amendments to, renewal, transmission (transfer) of energy licenses and revoking energy licenses,
- 6) keeping register of issued energy licenses and register of expired energy licenses.

(2) This Decree does not encompass procedure of tendering prescribed by Article 80 of Law on Electricity in Federation of Bosnia and Herzegovina (Official Gazette of Federation of BiH No. 66/13 - hereinafter: the Law)

(3) One need not to own energy license prescribed by this Decree for generating plant that must be built in accordance with the procedure form paragraph (2) of this Article

Article 2  
(Definitions)

(1) The particular terms used for purposes of this Decree shall have the following meanings:

**"Ministry"** is Federal Ministry of Energy, Mining and Industry.

**"Energy license"** is an administrative document and shall mean a license that precedes building new or reconstruction of existing electric power plant.

**"Applicant"** is a legal person or natural person submitting request for issuing energy license for building new or reconstruction of existing generating plant.

**"Procedure of issuing energy license"** is a procedure prescribed by this Decree in accordance with Articles 78 and 79 of the Law.

**"Generating plant"** are all facilities, installations and equipment that are all together used for generating electricity, or combined generation of thermal energy and electricity.

**"Feasibility study"** is a technical and economic assessment of the project for building new generating plant.

**"Investor"** is any domestic or foreign legal person, association of such persons or a natural person that participates in financing, building and work of generating plant.

**"License opening"** is a procedure conducted by the Ministry in the period of issued license validity, at request of the license owner or a or at the initiative of the Ministry in order to

change conditions related to the license because significant changes in the Law or of the facts appeared,

**"Reconstruction"** is works on existing electric power facilities that change technical characteristics of facilities. In accordance with the Law, reconstruction of electric power facilities shall not be:

- a) replacement of machines and devices without changing power and voltage,
- b) replacement of the overhead line conductors with conductors of the same cross-section or by one cross-section higher complying with the technical regulations,
- c) replacement of one or more poles,
- d) the replacement of the energy cables without the alteration of the voltage level,
- e) installation of the devices in the existing facilities by which managing, signalization and protection are ensured,
- f) performing the other operations set out by the regulations established by the Federal Ministry as well.

**"Intervener"** is an interested party that has a direct interest in participating in the procedure, because his interest differs from the general public interest and whose right of intervener in the procedure of issuing energy license was acknowledged by the Ministry.

**"Procedure manager"** is an employee of the Ministry who is authorised to manage procedure on behalf of the Ministry, including managing public discussions.

**"Interested party"** is a private or legal person who has a right or to participate in any phase of the procedure of issuing energy license, but they do not want to become a party in the procedure,

(2) Definitions of terms used in this Decree that are not stated in the Article (1) of this Decree shall have meanings defined in the Law and in the Law on Usage of Renewable Energy Sources and Efficient Cogeneration (Official Gazette of Federation of BiH, No. 70/13 and 5/14).

## **CHAPTER II - APPROVAL OF PROJECTS FOR BUILDING NEW OR RECONSTRUCTION OF EXISTING GENERATING PLANT**

### Article 3

#### (Obligation of obtaining energy license)

(1) Energy license shall be issued for the purpose of building of new or reconstruction of existing electric power plant that is harmonized with Strategic plan, Action plan and development plan and Action plan of use of OIE (renewable energy sources) in Federation of Bosnia and Herzegovina, as well as with appropriate cantonal plans and programs.

(2) Issuing of energy license, in accordance with the Law and this Decree, precedes issuance of new or reconstruction of existing electric power facilities building approval.

(3) Any private or legal person intending to build generating plant shall be obliged to obtain energy license from the Ministry in accordance with the procedure prescribed in this Decree.

(4) Ministry shall be obliged to ensure that the procedure of considering all received requests for obtaining energy license is objective, transparent and non-discriminatory.

### Article 4

#### (Submission of request for energy license)

(1) Legal or private person shall not build new or reconstruct existing electric power plants on the territory of Federation of Bosnia and Herzegovina (hereinafter: Federation) without energy license they had previously obtained, except in case of building facilities for the generation of electricity for their own needs in accordance with the Law and facilities that are built in accordance with Article 1 paragraph (3) of this Decree.

(2) Every private and legal person intending to perform activities referred to in paragraph 1 of this Article shall be obliged and shall have responsibility to submit a request for issuing energy license.

(3) Request for obtaining energy license shall be submitted to the Ministry, in written form and in format prescribed by this Decree.

(4) Applicant submitting request for obtaining energy license shall be obliged to pay administrative one-time fee for processing request prescribed by the Government of Federation of Bosnia and Herzegovina (hereinafter: the Government) by special decision and federal administrative fee prescribed by the Law on Federal Administrative Fees and Federal Administrative Fees Rate (Official Gazette of Federation of BiH, No. 6/98, 8/00, 45/10 and 43/13).

(5) Ministry shall consider submitted request for issuing energy license after which:

- a) it shall give a notification on preparation of draft license or it shall issue energy license in accordance with criteria and procedure prescribed by this Decree;
- b) it shall request that applicant provides additional information that Ministry considers to be necessary;
- c) it shall refuse to give a notification on draft license or to issue energy license in accordance with criteria and procedure prescribed by this Decree.

#### Article 5

##### (Obligations and criteria)

(1) Legal and private persons submitting request for obtaining energy license in accordance with this Decree must make sure that projects in all their phases adhere to all laws or regulations of Federation of Bosnia and Herzegovina that are in force, including application of existing standards and existing technical regulations.

(2) Energy license is issued to the applicant if they prove that they fulfil all conditions which refer to:

- 1) safe and undisturbed functioning of electric power system;
- 2) location and use of land where the facility will be built;
- 3) type and use of primary energy products;
- 4) environmental protection and;
- 5) people's health protection measures and safety of people and property measures;
- 6) energy efficiency;
- 7) characteristics of applicants, such as: technical, economic and financial abilities;
- 8) contribution of generating facility to achieving goals of Federation, i.e. Bosnia and Herzegovina as a whole, in increasing of share of energy from renewable sources in total final energy consumption;
- 9) contribution of generating capacity to decreasing of emission of greenhouse and harmful gasses and particles;
- 10) termination of work of generating plants and waste management.

(3) During the process of considering requests for issuing energy license for building new or reconstruction of existing generating plant, Ministry shall take account of harmonization of these projects with Strategic plan of development of electric power sector of Federation of Bosnia and Herzegovina, Spatial plan of Federation of Bosnia and Herzegovina, Action plan of using renewable sources in Federation of Bosnia and Herzegovina, including harmonization with appropriate cantonal plans and programs.

#### Article 6

##### (Safe and undisturbed functioning of electric power system)

Fulfilment of conditions based on criteria that refer to safe and undisturbed functioning of electric power system shall be determined by proving that the generating plant is planned, i.e. projected in such a way:

- a) that technical-technological solutions for projecting, building, use and drive of generating plant ensure application of standards and technical regulations by whom conditions and measures for safe and undisturbed functioning of electric power system at which planned generating plant is attached are determined,
- b) that technical-technological solutions for projecting, building, use and drive of generating plant ensures application of standards and technical regulations by which conditions and safety measures for generating plant, i.e. buildings, equipment and installations that belong to it;
- c) that technical-technological solutions predict manner of ensuring conditions for connecting generated plant to the existing transmission network or distribution network, i.e. to the electric power system, with the aim of ensuring functional connection of the system.
- d) Technical solution referred to in point c) of this Article should be accompanied by the opinion of the Independent System Operator in Bosnia and Herzegovina and company Elektroprijenos Bosne i Hercegovine for generating plants that are being connected to transmission network, i.e. previously given electric power consent of electricity producer issued by competent distribution operator, on possibilities and conditions of connecting the planned generating plant to the electric power system.

#### Article 7

(Location of the generating facility)

(1) The fulfilment of conditions based on criteria that refer to location and use of land on which the new generating plants shall be built shall be determined by providing evidence, i.e. by proving that:

- a) by spatial planning documents, general plan or regulatory plan building of generating plant on the location to which the submitted request refers is predicted;
- b) there are no limits to the aforementioned location and that it is possible to ensure that conditions regarding use of land, water and other resources necessary for building and work of the planned generating facility are ensured.

(2) Along with the request to issue energy license, the applicant shall be obliged to provide an opinion of the Federal Ministry of Physical Planning, i.e. opinion of competent cantonal ministry or local self-government body on fitting of generating plants that are within competence of cantons, for location referred to in paragraph (1) of this Article on which the generating plants referred to in Article 78 paragraph (3) of the Law shall be built, and which are within competence of Federation, in the concept of use of space.

#### Article 8

(Use of primary sources)

Fulfilment of conditions based on criteria that refer to type and use of primary energy sources for the planned generating plant shall be determined by proving that:

- a) by technical and technological solution of the generating plant conditions and manner of rational use of primary energy sources (according to the types and scope of use) are taken into consideration and analysed during the period of use of generating facility.
- b) there is no limit regarding the use of primary energy sources for electricity generation, for what they provide appropriate documents.

## Article 9

### (Environmental protection)

Fulfilment of conditions based on criteria that refer to environmental protection and proves that:

- a) there was an estimation of the effect of the generating facility to the environment made, considering the type and purpose of the facility, in case that the law that regulates the area of environment requires obligatory making of study on estimation of effect on environment and obtaining environmental permit;
- b) there was an estimation of the effect of the generating facility to the environment made or
- c) there was an analysis of possible consequences of negative effects of planned facility on climate, soil, water, air, flora, fauna, and cultural and historical heritage made with the suggestion of environmental and cultural and historical protection measures during the construction and use.

## Article 10

### (People's health protection measures and safety of people and property measures)

The fulfilment of conditions based on criteria that refer to people's health protection measures and safety of people and property measures shall be determined by proving:

- a) that global estimation of possible effect of generating plant on health of people from the standpoint of harmfulness of gasses and other matter that are concomitant phenomenon in the phase of use of generating plant was made and that harmful effect of objects on the health of people are prevented by designed technical and technological solutions.
- b) that safety measures regarding fire, explosion, breakdown and similar accidents that ensure safety of people and property are designed.

## Article 11

### (Energy efficiency)

The fulfilment of conditions based on criteria that refer to energy efficiency shall be determined by proving that the technical and technological solution of the generating plant designs:

- a) an optimal level of energy efficiency of the equipment necessary for the work of generating plant as well as
- b) an optimal level of energy efficiency of the generating plant itself.

## Article 12

### (Technical, economic and financial abilities and human resources)

(1) The technical ability of the applicant shall be assessed based on the provided evidence on the state of being technically equipped, i.e. the equipment that shall be used for constructing generating plant for which a request is submitted, as well as on the experience in design and/or management of generating plant.

(2) Financial ability of the applicant shall be assessed based on the provided evidence on the manner of providing financial resources for building new or reconstruction of existing generating capacities (the statement of the bank on competence to fund projects, one's own financial resources, loanable funds, etc.)

(3) Availability of the human resources of the applicant, possession of knowledge and organisational structure for building and functioning of the generating plant shall be assessed based on the provided evidence.

### Article 13

(Contribution to achievement of goals in using renewable energy sources)

The fulfilment of conditions regarding criteria on contribution of generating plant to achievement of goals of the Federation, i.e. Bosnia and Herzegovina, in using renewable energy sources shall be proved when an energy license for building new or reconstruction of existing generating plant using renewable energy sources is issued, with the goal to place on domestic electricity market all generated electricity for the needs of supplying of end customers and in that way directly participate in achieving national goal in using renewable energy.

### Article 14

(Contribution to decreasing of emissions)

The fulfilment of conditions regarding criteria on contribution of generating plant to decreasing of emission of greenhouse and harmful gasses and particles by proving that technical and technological solution for building new or reconstruction of existing generating plant encompasses estimation of decrease i.e. increase of emission of greenhouse and harmful gasses and particles.

### Article 15

(Termination and plan of waste management)

(1) The fulfilment of conditions based on criteria that refer to the termination of generating plants and waste management shall be determined by proving that technical and technological solutions of the generating plant contain plans for disposal of all waste that is produced during the building and use, i.e. during the phase of production, as well as plans of dismantling and decommission and/or removing of generating facilities in the end of their lifetime, and returning soil in the primary condition in accordance with technical requests and request of environment.

## **CHAPTER III - SUBMITTING A REQUEST FOR OBTAINING ENERGY LICENSE**

### Article 16

(The procedure of submitting a request)

- (1) The procedure of submitting a request for obtaining energy license shall be initiated upon the request of the applicant.
- (2) The applicant may be a domestic or foreign legal or private person that is registered in the appropriate registry.
- (3) The request for issuing energy license in accordance with this Decree shall be submitted to the Ministry in the shape and from provided in Appendix 1 of this Decree.
- (4) Together with the request for issuing energy license, the applicant shall be obliged to submit the following documents:
  - a) a certificate on registration in the court register issued by the competent court, i.e. a certificate on registration in the other appropriate register issued by the competent institution,
  - b) a registration number and tax identification number of the applicant,
  - c) a statute of the applicant,
  - d) an applicant's statement on structure of the financial sources that is harmonized with feasibility study or confirmation of commercial bank or credit institution on solvency of the applicant and possibility to fund the building of a generating plant with their

own financial resources and/or to have access and possibility to provide loan for building generating plant.

- e) financial reports from previous three years containing: a statement of financial position (balance sheet), a statement on total result in the given period (income statement), a cash flow statement, a statement of changes in equity, notes to the financial statement information/indicators of the financial state of the applicant are prepared in accordance with the Annex 2 of this Decree and they are based on audited financial statement from the previous three (3) years verified by the competent institution or financial auditor;
- f) an applicant's statement on all transaction accounts that are open at commercial banks and a bank certificate of their status,
- g) a certificate of no criminal conviction for offences related to environmental protection for the applicant, as well as a certificate of no criminal conviction for criminal offences, economic offences and offences related to environmental protection for the members of the applicant's members of the management board,
- h) a feasibility study (where necessary) containing conceptual solution or project design,
- i) an appropriate contract on concession (for building, performing activities using natural resources, goods in general use, and performing activities of general interest in accordance with a separate law),
- j) a study on estimation on effects on the environment as prescribed by laws and other regulations for specific generating plant,
- k) an environmental permit as prescribed by the law and other regulations for specific generating plant for which a request for energy license is submitted,
- l) water management documents as prescribed by the laws and other regulations for specific generating plant,
- m) a previously obtained electric power consent to connect to distribution network and/or opinion and elaboration of technical solutions and conditions of connecting to the transmission network,
- n) a proof on settled property relations related to the real estate on which the generating plant is intended to be built,
- o) a proof of technical and financial abilities, human resources, and applicant's experience, ownership or leading projects of production capacity of similar size and complexity, presented in the way as prescribed in Annex 3,
- p) a proof/certificate that applicant is not involved in the bankruptcy proceedings, that their businesses are not lead by an administrative receiver, that their commercial activities are not suspended or that they were not in any similar situation and/or that there is no other way he could be in a situation that represents breach of law,
- q) a proof/certificate that the applicant adheres to the obligation of paying tax and social obligations,
- r) an information related to the managing and organisational structure of the applicant, as presented in Annex 3,
- s) the biographies of management staff of the applicant and list of members of other management staff and their qualifications, as presented in Annex 3,
- t) an urban permit,
- u) an applicant's statement on existing licenses issued by Regulatory Commission for Energy in Federation of Bosnia and Herzegovina or other regulatory commissions or request for issuing license delivered to the Regulatory Commission for energy in Federation of Bosnia and Herzegovina or other regulatory commissions in Bosnia and Herzegovina or in some other country,

- v) any other information that Ministry considers necessary to make a decision upon one's request.
- (5) All evidence shall be delivered in the original documents or verified copies and they shall not be older than 60 days and the applicant shall be obliged to deliver a duly signed statement on of the truthfulness of the data in the form stated in Appendix 4.
- (6) If the applicant acts on behalf of "project company", "consortium" or other kind of association, the eligibility of investor shall be assessed based on based on information, including financial information, that refer to every member of the association, and which are delivered to the Ministry by the legal representative.
- (7) Upon reception of the request, Ministry shall enter it into the request register,
- (8) Ministry shall ensure that the request and all accompanying documents and other information are registered, entered and available to public at the rooms of the Ministry.
- (9) Ministry may, after consulting the applicant, decide which data or documents are considered confidential, whereby that kind of documents shall not be available for public use.

#### Article 17

(Fees that shall be paid when submitting request)

- (1) All applicants for obtaining energy license shall be obliged to pay one-time fee for administrative expenses of the processing of the request to the Ministry, in the amount determined by the decision of the Government, including and federal administrative tax/fee.
- (2) The applicant shall deliver a copy of receipt of the paid fee referred to in the paragraph (1) of this Article enclosed to the request for issuing energy license.
- (3) The paid fee for administrative expenses of the processing of the request shall not be returned to the applicant in case when the energy license is not issued.

#### Article 18

(Language and keeping records of the request)

- (1) The request shall be delivered in the written form and in the prescribed form from the Appendix 1, as well as in electronic form.
- (2) The request and accompanying documents shall be submitted in one of the official languages that are used in Federation and Bosnia and Herzegovina.

#### Article 19

(Consideration and competition of the request)

- (1) During the consideration of the request for issuing energy license Ministry shall be obliged to take account of general public interest, safety of supply of electricity and to provide that in energy license are included all conditions necessary for achieving goals from the Law and this Decree.
- (2) Upon the reception of the request, Ministry shall consider the request for issuing energy license and accompanying documents in order to determine its completeness.
- (3) The request for issuing energy license is complete when along with the request all the required documents are submitted, one-time fee for processing request paid and when applicant made a statement on correctness of the delivered data, under criminal and material responsibility.

#### Article 20

(Announcement on request)

- (1) When it is determined that the request for issuing energy license is completed, Ministry shall inform the applicant and publish a public announcement on their web site and in one daily paper of large circulation in Federation. The announcement shall contain:



- a) a summary on received request for issuing energy license,
  - b) the manner in which interested parties may receive information and instructions on how they may deliver comments on the request for energy license in written form prior to the deadline for delivering comments stated in the summary.
- (2) Ministry shall deliver received comments referred to in point b) paragraph (1) of this Article to the applicant and they shall publish it on the website of the Ministry.
- (3) Applicant and/or Ministry shall not publish any information that is classified as confidential.

#### Article 21

##### (Additional information)

- (1) When Ministry concludes that the request is incomplete and that it has defects, and that it requires additional information or explanations provided by the applicant, they shall be obliged to inform the applicant in the written form and request additional information and data or explanation to be delivered, to inform Ministries within time period no longer than thirty (30) days from the date of reception and registration.
- (2) Ministry may extend the deadline referred to in paragraph (1) of this Article if the applicant proves the reasonable cause because of which they were not able to reply within the determined time period.
- (3) If the applicant does not reply within the determined time period without reasonable explanation, Ministry shall keep the right to reject a request without prior explanation and without return of fee paid for the administrative processing of request, i.e. to decide on request based on the existing documentation and information.
- (4) When it is determined that the request is complete and that additional explanations or additional information and data are not required from the applicant, Ministry shall inform applicant and public of that in accordance with Article 20 paragraph (1) of this Decree.
- (5) Ministry shall keep the right to, after the request has been completed, request additional information and data from the applicant any time during the process of issuing energy license.
- (6) Applicant for issuing energy license may cancel their request during the entire procedure about what he shall inform the Ministry whereby:
- a) Ministry shall reach a conclusion by which the procedure is cancelled,
  - b) applicant shall have no right for return of one-time fee for administrative processing of request.

### **CHAPTER IV - PROCEDURE OF ISSUING ENERGY LICENSE**

#### Article 22

##### (Making decisions on request for issuing Energy license)

- (1) Ministry shall make a decision on the each submitted request within there (3) months from the day Ministry informed the applicant that the request is completed in accordance with Article 19 paragraph (3) of this Decree, except in case when Ministry decides it is necessary and decides to extend the period of considering the request for two (2) more months.
- (2) When Ministry determines that the request is complete and that the applicant fulfilled all the necessary conditions and criteria, Ministry shall start making a draft energy license in accordance with the Article 23 of this Decree.

#### Article 23

##### (Draft energy license, publication and collecting comments)

- (1) Ministry shall prepare draft energy license for generating plants referred to in the Article 78 of the Law that are within competence of the cantons,

(2) With previously procured consent of the Government and Parliament of the Federation of Bosnia and Herzegovina, Ministry shall prepare draft energy license for generating plants referred to in the Article 78 paragraph (3) of the Law and whose installed power is equal or greater than 30MW.

(3) With previously procured consent of the Government, Ministry shall prepare draft energy license for generating plants referred to in the Article 78 paragraph (3) of the Law and whose installed power is lower than 30MW.

(4) After the activities referred to in the paragraph (1), (2) and (3) of this Article are conducted, Ministry shall determine the draft energy license and shall make a conclusion on possible holding of at least one public discussion on draft of energy license and it shall contain:

- a) time and place of the discussion,
- b) provisions on appointing and authorisations of the procedure manager and its deputy,
- c) deadline for submitting comments on the draft energy licence and
- d) provisions related to submitting request for gaining the status of intervener.

(5) Ministry shall inform the applicant on determined draft energy license and decision that was made and referred to in paragraph (4) of this Article and publish a public announcement on their website and in one daily paper of large circulation in Federation containing basic information on:

- a) draft energy license,
- b) holding the public discussion,
- c) manner of and deadline for delivering comments on the draft of energy license,
- d) obtaining the status of intervener.

(6) Interested persons shall deliver to the Ministry a request for gaining the status of intervener in the process of issuing energy license in the period from completing request for issuing energy license to the expiration of a deadline for submitting comments on the draft of energy license.

(7) Status of intervener from the paragraph (6) of this Article may be obtained by legal or natural persons that explain in their request that they have special (personal, direct) interest to participate in the procedure and that they dispose of data, facts or evidence that are of importance for dealing with requests for issuing energy license.

## Article 24

### (Issuing energy license)

(1) Based on conducted activities referred to in Article 23 of this Decree, prepared proposal of energy license prepared by the procedure manager, report of the procedure manager and analysis of submitted comments on the draft of the license, Ministry shall make final decision by each submitted request within three (3) months from the day when they informed the applicant that the request is considered complete in accordance with the Article 19 paragraph (3) of this provision except when Ministry assesses it is necessary and decides to extend the period of considering of request for two (2) more months.

(2) Final decision on issuing energy license shall be made by the Ministry.

(3) Ministry shall make/issue energy license by means of decision whose integral parts are issued energy license and conditions of energy license.

(4) Energy license shall enter into force on the day set by the decision on issuing license, and license validity period shall not extend 5 years.

(5) Decision of the Ministry by which the energy license is issued shall be delivered to the applicant and intervener and shall be published on the website of the Ministry and enacting terms of the decision on issuing energy license shall be published in the Official Gazette of Federation of Bosnia and Herzegovina.

(6) Exempt from the provisions of Article 23 of this Decree, upon the completion of request and determining of completion of conditions from criteria prescribed by this Decree Ministry shall start making decision that enables issuing of energy license for building micro generating plants.

#### Article 25

##### (Contents of energy license)

The following shall be stated in the energy license:

- a) full name, address, phone number, fax number, e-mail address, account number and name of the commercial bank of the license holder,
- b) name, address, phone numbers, fax numbers, and e-mail address of the authorised legal person or legal representative who shall receive mail on behalf of the license holder and any notification or order of the Ministry. Every notification sent to this authorised address shall be considered properly delivered.
- c) correct name, purpose and technical characteristics of generating plant for which energy license is being issued,
- d) planned time during which it will be built in accordance with contract documents,
- e) the obligation of the license holder to adhere to the laws and technical regulations in force and standards on building electric power plants and power plant, as well as regulations in force for this area,
- f) the obligation of the license holder to deliver to the Ministry notification on building the generating facility after the building is finished,
- g) the obligation of the license holder to file a request for using facilities, i.e. a request for issuing license to operate to the Regulatory Commission for Energy in Federation of Bosnia and Herzegovina after finishing the process of building the plant and obtaining inspection certificate/public occupancy certificate,
- h) necessary financial, technical and other information or data that license holder submits regularly upon the request of Ministry or other competent body,
- i) the obligations of the energy license holder in cases when Ministry monitors if conditions from the license are adhered to,
- j) any other condition that Ministry considers necessary in order to fulfil goals or requests of the Law and bylaws.

#### Article 26

##### (Rejection to issue energy license)

(1) When Ministry concludes that applicant does not satisfy the criteria prescribed by this Decree, they shall make a decision on rejection of the request for issuing energy license for building new or reconstruction of existing generating plant.

(2) Decision on rejection of request referred to paragraph (1) of this Article shall contain reasons for rejection and instruction on legal remedy.

(3) Ministry shall deliver decision referred to in paragraph (1) of this Article to the applicant in written form and publish at the website of the Ministry.

## **CHAPTER V - PROCEDURES RELATED TO ENERGY LICENSE**

#### Article 27

##### (Initiating special proceedings)

Proceedings of renewal, amendments to the energy license, transmission, annulling and revoking energy license may be initiated upon the request of the holder/user of the energy license or upon the request of the Ministry.

## Article 28

### (Renewal of the energy license)

- (1) Renewal of the energy license shall be conducted according to the procedure and conditions prescribed for issuing a new energy license.
- (2) License holder/user shall be obliged to submit a request for renewal of energy license on the form of requests for issuing energy license referred to in Appendix 1 three (3) months prior to the license expiry at latest.
- (3) The deadline to which the energy license may be renewed shall not extend the deadline determined in the first energy license, after which the energy license may not be renewed.

## Article 29

### (Amendments to the energy license)

- (1) An announcement on submitting requests for amendments to energy license shall be published at website of the Ministry and in one daily paper of large circulation in Federation:
  - a) by Ministry, if they initiated amendments to or
  - b) by the holder/owner of the energy license, if they submitted request for amendments to the energy license.
- (2) Announcement referred to in the paragraph (1) of this Article shall contain:
  - a) reasons for initiating amendments;
  - b) appraisal of possible effects;
  - c) deadline not shorter than fifteen (15) days from the day of publishing of the announcement, during which expounded comments and remarks can be submitted.
- (3) In case when Ministry decides it is necessary, deadline for submitting comments and remarks can be renewed.
- (4) Amendments to the energy license may be initiated or requested in the following cases:
  - a) due to the significant changes in the legal framework, court decisions, events or contracts that have an impact on the said building or reconstruction of the existing plant,
  - b) in conditions in which holder/user of energy license has no control and under which fulfilment of conditions from energy license is impossible (e.g. vis major etc.)
  - c) when Ministry, with the aim to protect general public interest, initiates a procedure of amendments of the energy license in force in order to respond to the amendments on Law, bylaws or facts,
  - d) when it comes to change of status of the energy license holder/user (division or merging, joining, transformations, changes of owner's structure etc.)
- (5) Procedure of amendments on the energy license is performed in the same manner as the procedure of issuing energy license,
- (6) During deciding on amendments on energy license, Ministry shall consider:
  - a) exposition of the request for amendments on the license delivered by the holder/user of the energy license;
  - b) remarks and comments that are submitted by the interested parties in the process of amendments of the energy license;
  - c) any other information they consider necessary;
  - d) compliance of the amendment of the energy license to the criteria based on which the license was issued.
- (7) Amendments of energy license shall be issued by the decision of the Ministry that shall be delivered to the applicant and intervener and it shall be published at website of the Ministry and enacting terms of the decision shall be published in the Official Gazette of the Federation of BiH.

## Article 30

### (Revoking of energy license)

- (1) Ministry shall revoke the energy license if the holder/user:
  - a) does not adhere to conditions and deadlines determined by the energy license,
  - b) decides not to finish building i.e. reconstruction of the planned generating plant about what he shall be obliged to inform Ministry,
  - c) does not deliver the requested data and information to the Ministry during the building of the generating plant,
  - d) delivers incorrect data and information to the Ministry on purpose,
  - e) does not enable a direct access to the equipment and documents to the Ministry,
  - f) if they are likely to become insolvent, bankrupt or liquidated
- (2) The procedure of revoking license shall be conducted in the same manner as the procedure for issuing license.
- (3) Prior to procedure of revocation of license a warning letter of the Ministry shall be sent. After the Ministry receives a reply to the warning letter sent by the energy license holder/user, or if the energy license holder/user does not reply within determined deadline, a procedure of revocation of license shall be implemented.
- (4) Ministry may cancel the procedure of revoking energy license if the license holder/user fulfills conditions prescribed in the license during the procedure.

#### Article 31

##### (Transmission of the energy license)

- (1) If holder/user wants to transmit the license to the other person they shall be obliged to obtain beforehand a permission of the Ministry for the transmission. If the transmission is approved, the license holder/user shall be obliged to keep fulfilling his obligations according to the license until the procedure is done.
- (2) The new license holder/user shall have permission for transmission of energy license issued by the Ministry.
- (3) The procedure of transmitting license shall be conducted in the same manner as the procedure for issuing license.
- (4) Ministry shall decide if the person to whom the energy license is transmitted is capable of fulfilling conditions prescribed by the license.
- (5) If there is a possibility of not performing the public duty of supplying (e.g. in cases of the financial weakness, bankruptcy or liquidation) Ministry shall initiate initiating of the procedure of transmission to other person in order to enable continuation of activities of building generating plant.

#### Article 32

##### (Expiry of the licence)

- (1) Energy licence can expire in accordance with conditions under which the energy license was issued.
- (2) Ministry may declare the energy license expired:
  - a) if the holder/user of the energy license breaks the law, this decree or any conditions or limits stated in the energy license; or
  - b) if the energy licence was issued based on the materially false or deceptive information;
  - c) if licence validity date expired before the generating plant was built;
  - d) if requested by the holder/user of the energy license;
  - e) if the legal person who is holder/user of the energy license ceased to exist;
  - f) if a court decision was made that declared insolvency of the energy license holder/owner or their bankruptcy was declared;

- g) if fine imposed by the Ministry due to not fulfilling conditions of the license is not paid, as prescribed by Article 23 of this Decree.

## **CHAPTER VI - ENERGY LICENSE REGISTER**

### Article 33

#### (License register)

- (1) Ministry shall establish and keep a register of issued energy licenses.
- (2) Energy license register shall consist of records on all submitted requests for issuing energy license and all files (subjects) including all documents and appendices referring to the same issue and form a distinct unit.
- (3) Register file contains per each energy license:
- a) a request for issuing energy license,
  - b) documents and appendices that are submitted with the request for issuing energy license.
  - c) documents related to the public discussions,
  - d) decision upon request,
  - e) a license to perform licenced duty,
  - f) a decision on amendments, renewal, transmission or revoking energy license,
  - g) a legal remedy to the competent bodies on the decision of the Ministry related to the issuing, renewal, amendments, renewal, transmission or revoking of the energy license.
- (5) Because of submitting for inspection and copying, Ministry shall put at disposal of the public all documents related to their competence at issuing energy license, except for confidential information.
- (6) Ministry shall keep a list of all requests for issuing energy license that are waiting for the procedure, which were not decided about, time period for which they were waiting and assessment of the period of deciding by each license.

### Article 34

#### (Publishing)

- (1) Ministry shall inform the public on publishing, renewal, amendments, transmission and revoking energy license in Official Gazette of Federation of BiH.
- (2) Notification referred to in the paragraph (1) of this Article shall contain:
- a) name and headquarters of license the holder/owner and name of the person responsible,
  - b) register number, date of issuing and licence validity period,
  - c) summary of the license, i.e. amendments on, transmission or revoking of the energy license.

## **CHAPTER VII - PENAL PROVISIONS AND APPEALS**

### Article 35

#### (Fines imposed by the Ministry)

- (1) In case when a person begins building of generating plant without the ownership of the valid energy license issued in accordance with this decree, Ministry shall fine the person in accordance with the penal provisions referred in Articles 108-112 of the Law.
- (2) If it is determined that the holder/user of the energy license does not adhere to the conditions from the energy licence, Ministry shall send a warning letter and determine deadlines for removing the defects.

(3) If the holder/user of the energy license referred to in paragraph (2) of this Article does not act according to the conditions of the license not even after the warning, Ministry shall apply penal provisions of the Law referred to in Article (1) of this paragraph.

(4) While imposing a fine referred to in this Chapter, Ministry shall inform the person on the offence and provides them with possibility of replying in written form within fifteen (15) days from the day the notification was received.

(5) If the fine imposed by the Ministry was not paid, Ministry shall initiate a legal proceeding for debt payment in civil procedure.

(6) If the energy license holder/user does not act in accordance with the conditions referred to in the energy license or they do not fulfil any of the conditions prescribed by the Law and this Decree Ministry may initiate a proceeding of revoking energy license, i.e. not issuing license. Revoking i.e. not issuing energy license are heavy penalties and they should be imposed only after the energy license holder/user was given an opportunity to remove the defects.

#### Article 36

(Appeal against the decision of the Ministry)

(1) Decisions of the Ministry that issue, renew or make amendments of the energy license, transmit or revoke energy license or reject issuing energy license are final.

(2) Administrative dispute may be initiated against decision referred to in paragraph (1) of this Article it at competent court.

### **CHAPTER VIII - ADMINISTRATIVE MONITORING**

#### Article 37

(Administrative monitoring)

(1) Administrative monitoring encompasses monitoring of application of provisions of this Decree and other regulations, monitoring of performing jobs determined by this Decree, monitoring of lawfulness of administrative and other documents issued by the competent bodies as well as monitoring of their actions shall be conducted by the Ministry in accordance with authorisations prescribed by this Law, Law on Organisation of Public Administration Bodies in Federation of Bosnia and Herzegovina (Official Gazette of Federation of BiH, No. 35/05) and Law on Administrative Procedure (Official Gazette of Federation of BiH No. 2/98 and 48/99).

(2) This shall not exclude cooperation with other competent authorities and organisations.

### **CHAPTER IX - FINAL PROVISIONS**

#### Article 38

(Amendments to the Decree)

(1) Exempt from the provisions of Article 23 of this Decree, in accordance with the Article 39 paragraph (2) point 8 of the Law on Usage of Renewable Energy Sources and Efficient Cogeneration (Official Gazette of Federation of BiH, No. 70/13 and 5/14) it is determined that Register of Requests for Issuing Energy License for the privileged generator of OIE and Register of issued energy agreement for the privileged generator from OIE kept by the Ministry shall be the register for issuing energy licenses referred to in the Article 23 paragraph (4) of the Law on Usage of Renewable Energy Sources and Efficient Cogeneration (Official Gazette of Federation of BiH, No. 70/13 and 5/14) and the procedures shall not be renewed.

(2) Energy licenses shall be issued by the shortened procedure and without submitting request for issuing energy license to the legal persons to which provisions referred to in paragraph (1) of this refer to.

#### Article 39

(Appendices included to the Decree)

Integral part of this Decree shall be the following appendices:

- a) Appendix 1. Form Z1 for submitting request for energy license
- b) Appendix 2. Financial indicators of the applicant
- c) Appendix 3. Questionnaire for the applicant
- d) Appendix 4. Statement on the truthfulness of the data

#### Article 40

Interpretation of the provisions of this Decree shall be conducted by the Government.

#### Article 41

(Entry into force)

(1) This Decree shall enter into force on the eighth (8) day from the day following that of its publication in the Official Gazette of Federation of BiH.

V. number 541/2014  
27 March 2014  
Sarajevo

Prime minister  
Nermin Nikšić