

Customer protection & role and main tasks of Serbian Regulatory Body

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1. Legal framework

a) EU legal framework

General

- *Founding Treaties*
- *EU Consumer Protection Policy*
- *Consumer Acquis-15 key Directives*
- *Decisions of EU Court of Justice- over 80*

Energy Sector

- *Treaty establishing Energy Community (2006)*
- *Directive 2003/55/EC on internal market in natural gas, replaced by Directive 2009/73/EC*
- *Directive 2003/54/EC on internal market in electricity, replaced by Directive 2009/72/EC*

1. Legal Framework

b) Serbian legal framework

General

- Customer Protection Law (2005)
- secondary legislation

Energy Sector

- *Energy Law (2004)*
- *Secondary legislation:*
- *Decree on Condition for Electricity Delivery(2004)*
- *Decree on General Conditions for Natural Gas Delivery (2006)*
- *AERS' Methodologies and Tariff systems(2006 and 2007)*
- *Law on General Administrative Procedure (1997)*
- *Law on Administrative Litigation(2009)*

Law on customer protection

New area of Law

General protection for all consumers

Mechanisms and institutions-difficult to implement

Draft on changes in preparation

New concept has to prescribe:

1. obligations of traders to inform customers before trading
2. specificities of different types of consumer contracts
3. legal guarantees regardless of the nature of the product
4. transferring the burden of proof from the consumer to trader
5. specificities of consumer disputes (law value-high costs)
6. introduction of new protection instruments-collective suits,extra-judicial resolution of disputes etc
7. overcome of inapplicability of existing legislation because of un certainties

Energy Law

Establish energy regulatory body-AERS

Main tasks:

- improving and directing the energy market development (principles of non-discrimination and effective competition),
- monitoring the implementation of regulations and rules for energy systems operation,
- harmonizing activities of energy entities on providing regular supply,
- protection and equal position of customers


Mission of AERS-protection of long-term and short term interests of all consumers in Energy Sector

Short-term interests – providing security of supply and prices covering justified costs

Long-term interest-providing conditions for new investments in energy sector in order to cover future demand

2. Competences of AERS

Activities of AERS

- 1) Price regulation
 - 2) Licenses issuing
 - 3) Acts as dispute resolution authority on appeals,
 - 4) Market monitoring
 - approves Market and Grid Codes
 - set the eligibility threshold
 - verify, upon request, the status of eligible customer
 - 5) International activities
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3. Customer protection instruments

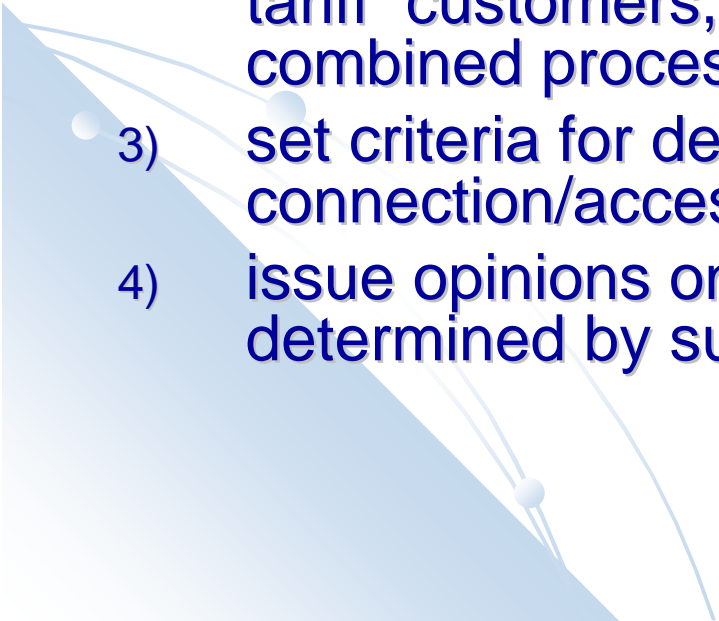
Price regulation

Settlement disputes

Monitoring of the safety and quality of supply



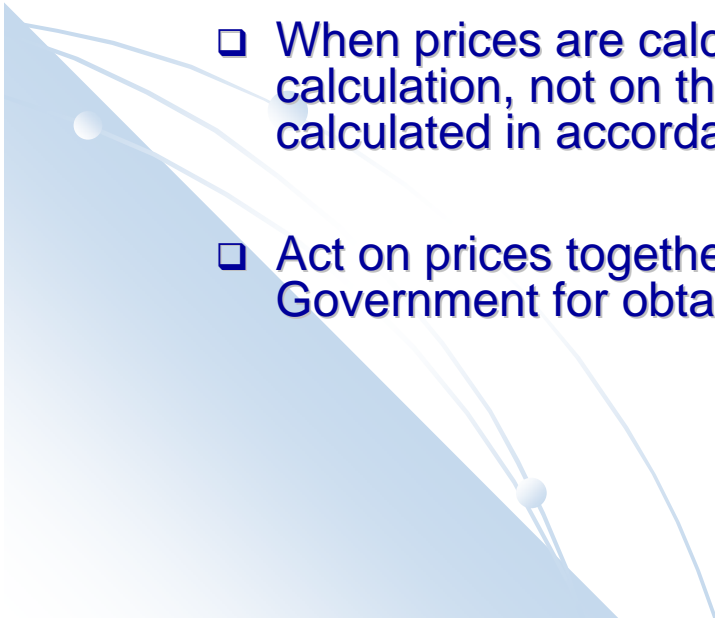
a) Price regulation

- 1) formulate Tariff Systems for calculating electricity and natural gas prices for tariff customers and Tariff Systems for access and usage of trans/dist systems & storage and other services (approved by the Government)
 - 2) set Methodologies for determination of Tariff elements for calculation of electricity and natural gas prices for tariff customers, including the heat produced in combined processes
 - 3) set criteria for determination of costs of connection/access to trans/dist system
 - 4) issue opinions on prices of electricity and natural gas, determined by supplier, prior Governmental approval
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a) Price regulation

➤ Price setting procedure:

- ❑ According to Article 15. of the Energy Law AERS is authorized to determine methodologies and tariffs systems for setting prices of electricity and n/g
- ❑ Methodologies and tariffs systems determine way for calculation prices of n/g, and are legally binding acts for T/D Companies which are obliged to calculate their prices in accordance with those acts
- ❑ When prices are calculated then AERS gives its opinion on that calculation, not on the level of the prices, only whether they are calculated in accordance with rules set out in the methodologies
- ❑ Act on prices together with AERS opinion must be submitted to the Government for obtaining approval, and then can be applied



a) Price regulation

Main principles of the price regulation:

- Covering of all justified costs
- Economic efficiency
- Stimulation of rational consumption
- Non-discrimination
- Efficiency of regulation
- Compliance with EU regulations



b) Settlement disputes

AERS - dispute settlement body

Competences limited on the cases prescribed by the Law (connection/access):

- Connection/access have been denied
- Decision upon request is not made in the due time
- Unsatisfactory decision (cost of connection, technical conditions, etc..)

! Lack of competences regarding metering, billing, quality of supply, various errors and omissions in the services, etc...

Informal decisions

Advise on solution(Inspectors within Ministry of trading, Ministry of energy etc)

b)Settlement disputes- three instances

I instance-distribution/transmission company

Upon request 30 days (connection), 3 days (access to the network)

- Decree on general conditions prescribes procedure for connection and necessary requirements for granting connection to t/d system as well as minimal content of TSO/DSO decision

Request for Connection to T/D system is granted to:

- new infrastructure,
- increase of capacity engaged on existing connections
- separation from/fusion with the existing connection
- reconnections after final disconnection

Procedure is conducted in accordance with Law on General Administrative procedure (LGAP)

b) Settlement disputes- three instances

II instance – Regulatory body (AERS)

Upon logged appeals-60 days from the submission of the appeal

15 days against decision regarding connection

8 days against decision regarding access

Procedure is conducted in accordance with Law on General Administrative procedure (LGAP)

AERS, acting as an appellate authority, shall, generally:

- 1) **change** the first instance decision
- 2) **annul** decision
- 3) **reject appeal**

- If the party omits the deadline of 15 days for appeal submission, AERS, acting *ex officio*, may use extraordinary remedies, (e.g. AERS may declare the first instance decision as null and void, when the decision is delivered on the basis of wrong application of the material law)

AERSs decision is final

b) Settlement Disputes- three instances

III instance -Administrative Court

Petition to the Administrative Court - within the 30 days

Public hearings are not compulsory, and rarely conducted by the AC

If the Court accept the petition, the AERS decision is annulled and the Court usually orders the repetition of the administrative procedure

In most exceptional cases, the Court may accept petition and change AERS decision, which rarely happens

In case the Court rejects the petition, AERS decision becomes final

Process conducted in accordance with Law on Administrative Litigation (App. Party/State Attorney vs. AERS)

c) Safety and quality of Supply

Safety of supply-through prices, new investments, market monitoring activities, etc

Quality of supply prescribed by:

Decree on Condition for Electricity Delivery(2004)

Decree on General Conditions for Natural Gas Delivery (2006)

Out of competences of AERS-only monitoring

Inspectors within Ministry of mining and energy



4. Vulnerable Customers

Energy Law-doesn't recognize VC as special group

Prescribed protection refers to all customers

II and III Package- protection of VC through Services of General interest

Definition: a set of basic services which are already available to the great majority of citizens and considered essential for participation in society

Guaranteed access for everyone, whatever the economic, social or geographical situation, to a service of a specified quality at an affordable/reasonable price

Protection through Services of General interest in Serbia refers to-

- all tariff customers
- at regulated prices

For some groups of VC EPS gives discounts

These groups are determined through the system of social protection

4. Vulnerable Customers in Serbia

What have been done so far:

Action Plan for Resolving the Social Consequences of the Energy Community adopted by the Resolution of the Government in October 2009

Providing the necessary level of protection for VC –one of the components of Action Plan

It will be done through the number of activities such as:

- Analysis of existing legislation
- Benchmarking with other countries-February 2010.
- Establishing criteria for defining VC
- Establishing Integrated Program of Assistance
- Adoption of regulations and other acts

4. Vulnerable Customers

What have to be done:

Definition of vulnerable customer

- revenue or cost approach
- individual or household

Criteria for determination vulnerable customers

- social vulnerability-broader term
- energy poverty
- definition of the solvency of the population
precondition for defining of VC

5. Basic Challenges

Protection of consumers for many years was neglected

Lack of legislation

Lack of time, practice and staffing capacity

Lack of competences for Regulatory body

Raising general awareness of the importance of consumers and their rights





ENERGY AGENCY OF THE REPUBLIC OF SERBIA

Thank you for your attention!

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