



REPUBLIC OF ALBANIA
-THE COMPETITION AUTHORITY-
The Competition Commission

DECISION
No.133, date 14.12. 2009

“Recommendations to the Energy Regulatory Entity with regard to the application for the new tariffs for electrical energy for the year 2010 by the Albanian Energy Corporation sha, the Operator of the Transmission System sha and the Operator of the Distribution System sha”

The Competition Commission, at its meeting held on 14 /12/ 2009, with the participation of:

Mrs. Lindita MILO (LATI)	Chairwoman
Mrs. Servete GRUDA	Member
Mr. Koço BROKA	Member
Mrs. Rezana KONOMI	Member

Addressed the following issue:

Subject: Recommendations to the Energy Regulatory Entity with regard to the following:

- Application made by the Albanian Energy Corporation (AEC) sha for the sales price of electrical energy by the Wholesale Public Supplier for the year 2010 and the sales price of electrical energy by AEC-Gen sha.
- Application of the Operator of the Transmission System (OTS) sha on the tariff change for the service of electrical energy transmission for the year 2010.
- Application of the Operator of the Distribution System (OSD) sha for retail tariff of electrical energy for the year 2010 through the distribution system.

Legal basis: Law No. 9121, dated 28.07.2003, titled “On the protection of competition”, Article 24, letter ‘f’, and Article 70, paragraph 2.

The Competition Commission, upon reviewing the following documents:

- Application documentation for the new tariffs for electrical energy for the year 2010, presented by AEC sha, OTS sha and ODT sha, and published by the Energy Regulatory Entity;
- Presentations made in the round table organized by the Energy Regulatory Entity with interested parties, on 25.11.2009;

- Report of the Secretary of the Competition Authority.

NOTED THAT:

The Energy Regulatory Entity is reviewing the applications for the new prices of electrical energy for the year 2010 and has required the opinion of the various institutions on the applications forwarded by AEC sha, OTS sha and ODT sha,.

Pursuant to Article 70 of the Law on protection of Competition, the Competition Authority cooperates with the Regulatory Entity of the Electrical Energy Sector in order to ensure fair market competition.

All three companies, AEC sha, OTS sha and ODT sha, enjoy a dominant, monopoly position in the relevant markets of production, wholesale supply, transmission, distribution and retail supply and for this reason, i.e. the high degree of dominance of the relevant markets by these three companies, they have particular responsibilities in their market. On the basis of the practice and competition rights, the greater the dominance in a relevant market (and in this particular case, the companies are a monopoly) the greater are the specific responsibilities towards their consumers.

The calculation of the electrical energy tariffs for the year 2010 is based on the Regulatory Declaration¹ for all three operators, AEC sha, OTS sha and ODT sha. In the calculation of new tariffs for the year 2010, all three companies are based on the expected revenue to be realized in the year 2010.

On the basis of the Regulatory Declaration, if the request for revenues of ODT in its function as Retail Public Supplier in a given year results in an increase of the average tariff for tariff consumers at a level greater than 15% in real terms over Consumer Pricing Index, *then the minimal increase of the average tariff , as approved by the Energy Regulatory Entity shall be 15% in real terms.*

The evaluation of the Competition Authority and the relevant recommendations have been issued solely on the basis of the data available until the moment of their issuance. In order to have rendered a more complete and objective assessment, the Energy Regulatory Entity, as well as the three applying companies should have been more transparent and made available more complete, accurate and timely information.

FOR THE ABOVE REASONS:

Komisioni i Konkurrencës, bazuar në nenin 24, germa f dhe nenin 70, pika 2 të Ligjit Nr. 9121, datë 28.07.2003, “Për mbrojtjen e konkurrencës”, me propozim të Sekretariatit,

DECIDED:

¹ Article 6 of the Regulatory Declaration approved by the Energy Regulatory Entity through Decision No. 12, dated 03.03.2009, valid through 2014.

- I. To recommend to the Energy Regulatory Entity to ensure the necessary transparency for the Competition Authority and provide as complete and accurate as possible information and data, and in a timely fashion, in order to enable an objective assesment of the behaviour of the operators with dominant position in the market.
- II. To recommend to the Energy Regulatory Entity the following:
- II.1. Concerning the application made by AEC sha:*
- The generation tariff for the year 2010 shall be oriented towards the generation cost and the investment rate of return.
 - Based on point 5.7, the last paragraph of the Energy Market Model, every net gain from the exports of AEC sha foreseen for the year 2010, must be taken into account in order to be reflected for the benefit of the consumers.
- II.2. Concerning the application made by OTS sha:*
- The expected increase of the transmission tariff should be oriented towards the weighted average unit transmission cost. Moreover, on the basis of the Tariff Methodology for OTD, the tariffs applied by this operator tend towards long-term average cost of the transmission system.
- II.3. Concerning the application made by ODS sha:*
- With regard to the proposal presented through the application of the ODS sha for the removal of the first consumption block as a hidden subsidy for household consumers, we recommend to review this proposal on the basis of the principle that tariffs should serve to motivate efficiency in the use of electrical energy by the end user.
 - With regard to the proposal presented by ODS on the weighted average tariff, we propose that the Energy Regulatory Entity considers the approval as a tariff within the minimum level allowed by the Regulatory Declaration.
- III The Secretary General is in charge to notify the Energy Regulatory Entity within 15.12.2009.

THE COMPETITION COMMISSION

Servete Gruda
(_____)
Member

Koço Broka
(_____)
Member

Rezana Konomi
(_____)
Member

Lindita Milo (Lati)

CHAIRWOMAN

