

REGULATION ON THE PROCEDURES OF LICENSE REMOVAL IN POWER AND NATURAL GAS SECTOR

Article 1 The Authority

This regulation is drafted implementing article 42, of Law no. 43/2015 “On Power Sector” and article 27 of Law No. 102/2015 “On Natural Gas Sector”

Article 2 The Purpose

The purpose of this regulation is to ensure an equal and transparent treatment, for all the licensees on power and natural gas sectors, to take the decision to remove a license, by setting the same procedures to the licensee on power and natural gas sectors, in cases of removing a license.

Article 3 The Object

This regulation defined the procedures that are applied to remove a license issued according to Law no. 43/2015 “On Power Sector” and Law No.102/2015 “On Natural Gas Sector”, in conformity with the “Regulation for ERE organization and operation” and the “Regulation on the terms and procedures for license issue, modification, transferring, renewal and license removal in the power sector” and the “Rules and Procedures on Licensing, Modification, Full/Partial Transferring, License Removal and Renewal on Natural Gas Sector”.

Article 4 Definitions

The following words and phrases used in this Regulation shall have the following meanings:

- 1. “Power Sector Law”** shall mean Law no. 43/2015 “On Power Sector”
- 2. “Natural Gas Sector Law”** shall mean Law 102/2015 “On Natural Gas Sector”

3. **“Board”** shall mean ERE decision taking body, composed of five members appointed according to the procedures provided on Power and Natural Gas Sector Laws”
4. **“Energy Regulator Authority”** or **“ERE”** is the regulator authority of power and natural gas sector, which operates in conformity with power and natural gas sector Laws ”.
5. **“License”** shall mean an authorization issued to a person for exercising an activity on power and natural gas sectors.
6. **“Licensee”** shall mean a person holding a license issued within the meaning of Law no. 43/2015 “On the Power Sector” and Law No. 102/2015 “On Natural Gas Sector”.
7. **“License removal procedure”** shall mean a set of actions, performed to implement the legislation in force to realize the provisions of this regulation.
8. All terms and definitions used in this regulation shall have the meaning defined in the terms of power and natural gas laws.

SECOND PART THE PROCEDURE FOR LICENSE REMOVAL

Article 5 Cases for License Removal

ERE removes a license when the licensee:

- a) does not fulfill the essential conditions of the electricity or natural gas license issued according to power or natural gas law;
- b) violates the legal provisions for environment protection during the performance of his activity ;
- c) endangers the health, life and property of people;
- ç) does not execute the regulatory payments, imposed by ERE, as defined on article 17 of the power sector law or article 14 of natural gas law.
- d) becomes financially incapable or requires to announce bankruptcy;
- dh) on the request of the licensee;
- e) has ceased to perform certain operations according to the license.

Article 6 Beginning the procedures

In all cases the persons charged from ERE observe one or some conditions provided on article 5 of this regulation, the working group held for this purpose prepares the information for ERE Board, on the observed conditions and propose the Board for ERE decision to begin the procedure for license removal.

In any case, to the company to which it has began the procedure for license removal when informed shall liquidate any unpaid regulatory payment to ERE. In any case the debtor licensee is not released by this obligation to ERE, even after taking the decision to open the procedures for license removal. The Board may decide to take administrative measures in conformity with article 107 of Law 43/2015 which constitutes an executive title and is executed in conformity with the Civil Procedure Code.

Article 7

Notification and its content

With the initial of the procedure for license removal, according to the conditions defined on points a, b, c, ç and/or d of article 5 of this regulation ERE:

- a) informs in the written form the licensee for the opening of the procedures for license removal stating clearly the reasons for license removal;
- b) respects the right of the licensee to respond by writing within 30 days from the date of receiving the notification for the beginning of the procedures for license removal;
- c) when it is on public interest, may give 30 days to the licensee, after its written response to act in conformity with the license conditions and to avoid the reason for its removal.

In case that to the licensee is proposed the license removal for the conditions provided on points dh and/or e of this regulation, ERE shall immediately proceed to implement the provisions of article 9 of this regulation.

Article 8

Final proposal

After receiving the written reply from the licensee according to the provisions, the charged persons that follow this procedure, shall review this response within 30 days and shall prepare a report for the Board on the arguments submitted and the actions undertaken by the licensee and shall propose to the Board;

- a) to close the procedure for license removal in case the licensee shows failure of the conditions defined on points "a", "b", "c", "ç" and / or "d" of article 5 of this regulation and there are the reasons for license removal;
- b) to give the Licensee a 30 days period to act in conformity with the license and avoid the reasons for license removal, in conformity with article 7 paragraph 1 point "c" of this Regulation; or
- c) to remove the license.

Article 9

Board Decision

When receiving the detailed information with the data according to articles 7 and 8 of this regulation, the Board shall decide to:

- a) to close the procedure for license removal;
 - b) to give the Licensee a 30 days period to act in conformity with the license and avoid the reasons for its removal;
 - c) to remove the license subject of the conditions defined on points "a", "b", "c", "ç" and/ or "d" of article 5 of this regulation based on the proposal submitted on the report, in conformity with article 8 of this regulation; or
 - d) to remove the license subject of the conditions defined on points "dh" and / or "e" of article 5 of this regulation, in conformity with article 7 paragraph 2 of this regulation.
2. In case the Board takes the decision according to letter "b" point 1, its final decision to close the license removal procedure or to remove the license shall be taken after the report submitted in conformity with article 8 of this regulation after the 30 days deadline.
3. The Board takes the decision not later than 10 working days after the delivered report in conformity with article 8 of this Regulation.
4. After the Board decision to remove the license, ERE shall inform the Council of Ministers, for the aim and in conformity with article 42, point 8 of Law no.43/2015 "On Power Sector "or article 27, point 8 of Law no.102/2015 "On Natural Gas Sector", respectively for the procedures initiated for the licensee on natural gas sector if the license is removed from:
- a) The electricity generator, electricity transmission system operator, electricity distribution system operator, or electricity generator within the public service obligation; or
 - b) Natural gas transmission system operator, natural gas distribution system operator, LNG system operator, or natural gas storage system operator.

Article 10

Notification of the Decision

By the end of a procedure for license removal, ERE shall inform the licensee on the conclusion of the procedure initiated to him and shall send a copy of ERE Board Decision.

This notification shall be delivered to the licensee not later than 2 working days after the approval of the Board Decision.

Article 11

Review and complaining

Against ERE Board Decision for license removal, any party included in a procedure may require its review by ERE, within 7 calendar days from the day of taking the decision, in case it provides new evidences that may lead the Board in taking a different decision from the previous one or are observed material mistakes.

The licensee may make a complaint at the court within 30 days from the publication of the Board decision in the Official Gazette.

Article 12

Temporary conditions for the companies in the power sector

1. When ERE takes the decision for license removal of a licensee performing his activity in generation, transmission, distribution or electricity supply, to which it is set public service obligation, in a way that the assets, in the licensee ownership, continue to be utilized for electricity supply security to the customers, ERE, based on this regulation, sets one of the temporary measures, defined as follows:

- takes the decision to set under limited administration, for a defined period of time, the company to which it is removed the license, to ensure the exercise of the activity and the operation of its assets until taking the measures according to this regulation.
- appoints another company to perform the activity of the company to which it is removed the license and shall fulfill the respective licensing conditions;
- takes the decision to set a temporary administrator of the company, to which it is removed the license, to ensure the exercise of the activity and asset operation until taking the measures, according to point 3 of this article. In this case, ERE with the proposal of the respective minister for electricity and in conformity with the procedure and criteria for appointing the administrator, which shall be responsible for the temporary administration of the company approved by the Council of Ministers appoints the administrator, which is responsible for ensuring a normal activity, including the assets operation of the company to which it is removed the license according to the respective conditions.

2. For the cases provided in point 1, of this article, ERE defines the conditions and obligations that shall be implemented from the company to which it is removed the license, during the period of implementing the temporary measures. To the company to which ERE applies one of the temporary measures provided on point 1, at ERE Decision it is issued the permission for performing the temporary activity according to the conditions defined by ERE.

3. Until the license is transferred to another company, shall be applied temporary measures, defined at point 1, of this article for a period not longer than 12 months from the date of removing the license, which implementation shall be monitored by ERE.

Article 13

Temporary conditions for companies licensed on natural gas sector

1. When ERE takes the decision for license removal of a licensee performing his activity in transmission, distribution, LNG operation or storage system operation, to which it is set public service obligation, in a way that the assets, in the licensee ownership, continue to be utilized for natural gas supply security to the customers, ERE, based on this regulation, sets one of the temporary measures, defined as follows:

a) takes the decision to set under limited administration, for a defined period of time, the company to which it is removed the license, to ensure the exercise of the activity and the operation of its assets until taking the measures according to this regulation;

b) appoints another company to perform the activity of the company to which it is removed the license and shall fulfill the respective licensing conditions;

c) takes the decision, with the proposal of the respective minister for electricity and in conformity with the procedure and the criteria for appointing the administrator, which shall be responsible for the temporary administration of the company, approved from the Council of Ministers, to appoint the temporary administrator of the company to which it is removed the license, to ensure the exercise of the activity and asset operation until taking the measures, according to point 3 of this article.

2. For the cases provided on point 1, of this article, ERE defines the conditions and obligations that shall be implemented by the company, to which it is removed the license, during the implementation of the temporary measures.

3. Until the license is transferred to another company or is re given to the same company, shall be applied the temporary measures defined on point 1, of this article for a period not longer than 12 months from the date of removing the license, which implementation is monitored by ERE.

THIRD PART FINAL PROVISIONS

Article 14

Amendments of the Regulation

These Rules are object of review and amendment with ERE Board decision, in conformity with “ERE Organization and Operation Regulation” approved with ERE Board Decision no 96 of date 17.06.2016

Article 15

Entry into Force

This Regulation enters immediately into force.