

# Electricity Act<sup>1</sup>

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## CHAPTER 1

### **Purpose and Scope**

#### Article 1

##### *Purpose*

The purpose of this legislative Act is to promote an economic electricity system and thereby strengthen the Icelandic industries as well as regional development in Iceland. To this end:

1. A competitive environment shall be ensured for the generation and trade of electricity, with such restrictions as may prove necessary for the security of supply and other public interests.
2. Effectiveness and efficiency in the transmission and distribution of electricity shall be promoted.
3. The security of the electricity supply system and consumer protection shall be ensured.
4. The use of renewable energy sources and observance of other environmental criteria shall be promoted.

#### Article 2

##### *Scope*

This legislative Act applies to the generation, transmission, distribution and trade in electricity in Icelandic territory regardless of the source of energy.

#### Article 3

##### *Definitions*

1. *Distribution Network*: electrical lines which do not constitute a part of the transmission system, together with connected facilities and equipment, including supply service lines. Also meters and measuring instruments of final customers.
2. *Distribution system operator*: a company licensed to distribute electricity in a designated area.
3. *Distribution zone*: a geographical area where a distribution system operator has the exclusive right and obligation to distribute electricity.
4. *Renewable energy sources*: energy sources that can renew themselves continually, such as hydropower, geothermal energy, wind energy, tidal energy and solar energy.
5. *Transmission system operator*: a company operating and managing a transmission system.
6. *Transmission system*: electrical lines and connected facilities that transport

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<sup>1</sup> In case of any discrepancies between the translation and the text in Icelandic the original text as published in the Icelandic Legal Gazette prevails.

electricity at 30 kV or higher. The transmission system shall extend from the high-voltage side of auxiliary transformers of power stations to substation transformers of distribution system operators.

7. *Transmission facilities*: electrical line and connected equipment for the transmission of electricity.
8. *Tariff zone*: an area in which a harmonised tariff for distribution is effective.
9. *Main transmission system*: the transmission system of the National Power Company (Landsvirkjun) at supply voltages 66, 132 and 220 kV, as upon entry into effect hereof. Also any additions after such date at 132 kV or higher to increase transmission through this system, excluding radial lines from the system. The main transmission system also includes connecting lines to power plants over 7 MW and with an annual utilisation time of 3000 hours or more.
10. *Final customer*: a party buying electricity for own use.
11. *Energy source*: any natural source of energy in a specific form, such as hydropower, a geothermal reservoir, tidal energy, wind and sunlight, as well as oil and gas reservoirs and coal mines.
12. *Electrical line*: a collection of conductors, isolating materials and connected equipment for the transmission of electricity between two locations within an electricity supply system.
13. *Electricity system*: all equipment used for the generation, transmission and distribution of electricity and forming an integrated operation.
14. *Electricity market*: an organised market for electricity.
15. *Electric power plant/station*: a facility used to generate electricity. Two or more units forming a natural whole and connected to the transmission system or distribution system through common substations constitute a single power station.
16. *Trade in electricity/trading*: the buying and selling of electricity.
17. *Supplier*: a business that sells electricity or engages in trade in electricity, whether in wholesale or retail.
18. *Generation of electricity*: the conversion of energy, such as hydro energy, geothermal energy or chemical energy, into electricity.
19. *Producer*: a company engaging in the generation of electricity or holding a power development licence.
20. *Power development licence*: a licence, provided pursuant to this Act, authorising the holder to construct and operate an electric power plant.

## CHAPTER II

### Generation of Electricity

#### Article 4

##### *Granting of Power Development Licence*

A licence issued by the Minister is required to construct and operate an electric power plant. However, such a licence is not required for an electric power plant with a rated capacity of under 1 MW, although such generation of electricity must be reported to the National Energy Authority (Orkustofnun) if the energy produced is sold or transmitted into an electricity supply system.

The power development licence shall expire after ten years following its date of issue if the licence holder has not begun development at such time and fifteen years after the date of issue if the power station has not then been taken into operation. The licence holder may apply to the Minister for a renewal of the licence prior to its expiry.

Before a licence holder starts development on a property pursuant to such a licence, an agreement must be concluded with the landowners and the owners of the energy sources concerning compensation, or, alternatively, a decision on expropriation needs to be obtained under Article 23 hereof. In the event that neither an agreement has been made on compensation nor an expropriation requested within 90 days immediately following the

date of issue of the licence, the licence shall be cancelled. This provision also applies to the utilisation of resources on public land, as applicable.

#### Article 5

##### *Conditions for the Granting of Power Development Licences*

Power development licences shall only be granted to an independent legal and taxable entity.

The Minister may establish conditions for the issue of a power development licence which are designed to promote an adequate supply of electricity, security, reliability and efficiency of the electricity supply system and the utilisation of renewable energy sources. Also, conditions may be established in relation to environmental protection, land use and the technical and financial capacity of the power development licence holder. All conditions shall be specified in a government regulation.

Power stations shall be connected to the transmission system, subject to Paragraph 2 of Article 11. An agreement on such connection to the transmission system shall be available when an application is submitted for the licence. The Minister may, in exceptional circumstances, grant exemptions from the obligation to connect to a transmission system in the case of power stations with a capacity of under 3.5 MW and in relation to fuel generators which are used primarily during disturbances in the transmission or distribution system.

A licence for a hydroelectric power station may be issued subject to the condition of an agreement being reached on interconnected operation with other hydroelectric power stations and reservoirs in the catchment area in question. In the event that no such agreement can be reached, the Minister shall resolve the dispute and his decision shall be final at the administrative level. A power development licence for a geothermal power station may likewise be subject to the condition of an agreement being reached on interconnected operation with other parties using the same geothermal area. The Minister may also introduce a reservation in the power development licence to the effect that another party may be granted a power development licence for a power station using the same catchment or geothermal area. The Minister may review the provisions of a power development licence in this respect and add provisions that he considers necessary to ensure the overall efficiency of the use of the catchment or geothermal area.

#### Article 6

##### *Substance of the Power Development Licence*

A power development licence shall specify, *inter alia*:

1. The size of the power station and the demarcations of the power development area.
2. The time at which the development shall begin at the latest and when it shall be completed.
3. The obligation of the power development licence holder to provide information and report to Orkustofnun and to the transmission system operator, to the extent necessary for those parties to perform their respective roles.
4. Safety and environmental protection measures.
5. Conditions relating to the technical and financial capacity of the licence holder.
6. Disposal of facilities and equipment when their use is discontinued.
7. Other matters pertaining to the conditions of the licence and the licence holder's obligations hereunder.

A provision may be included stipulating that the power development licence shall be reviewed after a specified period of time in the event that the grounds for the conditions of the licence have changed materially.

#### Article 7

##### *Activities and Obligations of the Producer*

A producer may engage in concessioned activities but may not subsidise his generation through the concessioned operations or through other operations having a comparable status. Producers shall, in their internal accounts, keep their accounts for generating activities separate from other activities. In the event that a producer operates a geothermal power plant which produces both electricity and other energy, e.g. hot water or steam, the Company shall, in its internal accounts, keep its accounts for the generation of electricity separate from accounts relating to other generation. Accounting segregation shall in other respects be subject to Article 41.

A producer is under obligation to abide by the decisions of the transmission system operator concerning the volume of generation to enable the transmission system operator to meet his obligations relating to system management pursuant to Article 9, for which payment shall be made pursuant to an agreement with the producer.

### CHAPTER III

#### **Transmission**

##### Article 8

##### *Operation of the Transmission System and System Management*

One company, appointed by the Minister, shall be responsible for the transmission of electricity and system management pursuant to the provisions of this chapter. The company shall be an independent legal and taxable entity.

The Minister shall take measures regarding the establishment of a company for the operation of the transmission system with the participation of owners of transmission facilities in Iceland on the entry into force of this Act. If such a company is successfully established, the Minister shall enter into an agreement with the company on the matters provided for in Paragraph 1 and subsequently appoint the company as the transmission system operator. A term of effect may be specified for such an agreement.

In the event that a company is not successfully established pursuant to Paragraph 2, a state-owned company shall be established for the operation of the transmission system and system management.

The transmission system operator shall not engage in any activities other than those which are necessary for the performance of his obligations hereunder. However, the company may operate an electricity market provided that it keeps the accounts for such operation separate from accounts relating to other activities. The transmission system operator shall, in his internal accounting, keep accounts for system management separate from accounts concerning other activities. Accounting segregation shall in other respects be subject to Article 41. The board of directors of the transmission system operator shall be independent of other companies engaging in the generation, distribution or sale of electricity.

In the event that the transmission system operator fails to comply with the conditions hereof, regulations issued hereunder, the conditions of the agreement pursuant to Paragraph 2, or any other related agreements, the Minister shall issue to the transmission system operator a written warning and allow a reasonable deadline to make amends. If the transmission system operator fails to respond to the Minister's warning within the specified deadline, the Minister may review or terminate the agreement.

##### Article 9

##### *Obligations of the Transmission System Operator*

The transmission system operator shall develop the transmission system in an economic manner, taking into account security, efficiency, reliability of supply and the quality of electricity. The company possesses the exclusive right to construct new transmission facilities.

A licence from the Minister is required to install lines transmitting electricity at 66 kV or higher. The Minister may attach mandatory conditions to the licence in relation to the subject of Paragraph 1, as well as conditions in relation to environmental protection and

land use.

The operation of the transmission system includes, *inter alia*:

1. Connecting customers to the transmission system on request, provided that they fulfil the technical conditions required and provided also that they pay a connection fee according to the provisions of a tariff pursuant to Article 12. However, new customers may be denied access to the transmission system on grounds pertaining to the transmission capacity, security and quality of the system. Such denial of access shall be in writing and reasoned.
2. Providing electricity in compensation for electricity losses in the system.
3. Providing reactive power for the system to utilise transmission capacity and ensure voltage quality.
4. Ensuring reliability in the operation of the system.
5. Ensuring the availability of a forecast on the projected demand for electricity and a plan for the development of the transmission system.

The transmission system operator is responsible for the secure management of the electricity supply system and shall ensure the security and quality of his delivery of electricity. Such system management includes, *inter alia*:

1. Co-ordinating supply and demand as regards electricity so that discrepancies between agreed purchase and actual use can be met, and entering into contracts with producers in connection therewith.
2. Ensuring adequate supply of spinning reserves in the operation of the system.
3. Determining processes of use where power measurements are not conducted.
4. Measuring the delivery of electricity into and out of the transmission system in accordance with the applicable government regulation, documenting measurements and submitting records to the parties in question for the purpose of enabling financial settlement in relation to trade in electricity.
5. Supplying public authorities, customers and the public with the information necessary to assess whether the company is performing its obligations and to ensure non-discrimination in trade in electricity.

The transmission system operator shall, in consultation with electricity companies, establish rules on the management of the system, which shall be approved by the Minister. The rules shall contain further provisions on, *inter alia*, the matters specified in Sub-Paragraphs 1-5 of Paragraph 4.

The transmission system operator shall have access to all the information of producers, distribution system operators and suppliers necessary for the performance of his function.

The transmission system operator shall operate in a non-discriminatory manner and maintain confidentiality regarding information relating to business interests and all other information that should fairly and reasonably remain confidential.

In the event of *force majeure* preventing the supply of electricity from meeting demand, the transmission system operator shall take up rationing of electricity to distribution system operators and final customers. Rationing shall be non-discriminatory and based on objective criteria to be further specified in a government regulation.

The Minister shall, in such regulation, establish further provisions on the role and activities of the transmission system operator, system management and the connection of power stations to the transmission system.

## Article 10

### *Owners of Transmission Facilities*

Owners of transmission facilities other than the transmission system operator shall grant the operator full access to their facilities. A charge shall be paid for such use based on the criteria of Sub-Paragraph 1 of Paragraph 2 of Article 12, as applicable. Any disputes arising in respect of such charge will be referred to the Appeals Committee on Electricity, cf. Article 30.

Owners of transmission facilities shall perform the necessary maintenance of their

structures to ensure the security and reliability of transmission through them. If the transmission system operator believes that the owner of a transmission facility is not performing the necessary maintenance, the transmission system operator may have such maintenance carried out at the owner's expense.

The Minister may establish further provisions in a government regulation on relations between owners of transmission facilities and transmission system operators, transmission system operators' use of transmission facilities and charges for such use.

#### Article 11

##### *Transmission Facilities External to Transmission System*

Distribution system operators may request that the Minister exempt from the transmission system any transmission facilities that transport electricity exclusively within the same distribution zone, provided that they are not connected to a power station which is obliged to connect to the transmission system pursuant to Paragraph 3 of Article 5.

Applications may be made to the Minister for the construction of transmission facilities and the transmission of electricity directly from a power station to a final customer, if the transmission system operator is of the opinion that the system does not have the capacity for such transmission, cf. Sub-Paragraph 1 of Paragraph 3 of Article 9.

The Minister may attach the same mandatory conditions to a licence pursuant to Paragraph 1 and 2 as specified in Paragraph 2 of Article 9 if the lines in question are intended for the transmission of electricity at 66 kV or higher.

#### Article 12

##### *Tariff*

The transmission system operator shall establish a tariff for his services pursuant to an income possibility curve decided by Orkustofnun, cf. Paragraph 2, and requirements relating to the structure of the tariff pursuant to Paragraph 3. The tariff shall be sent to Orkustofnun two months before taking effect. The transmission system operator shall publish the tariff

Orkustofnun shall establish annually the income possibility curve of the transmission system operator on the basis of the following criteria:

1. Expenses incurred by the company's operation, including expenses relating to maintenance, depreciation of assets necessary for the operation of the system, leasing costs relating to transmission facilities, cost of energy losses, general operating expenses and expenses incurred by system management.
2. The transmission system operator's profitability shall ordinarily correspond to 2% or more, but shall not exceed 2% of the real return on non-indexed five-year government bonds, or comparable securities. Profitability is calculated as the ratio of earnings before financial income, financial expenses and taxes (EBIT) to the book value of fixed assets.
3. Efficiency requirements based on reasonable costs as assessed by Orkustofnun, taking into account the services provided by the company.
4. In the event that the company's profitability for the preceding three years is outside the limits specified in Sub-Section 2, this shall be taken into account in preparing the tariff for the following year.

The tariff shall be structured as follows:

1. A charge shall be determined for connection to the transmission system and a charge for input and output at each connection point of the transmission system. The same tariff shall be effective for input at all connection points of the transmission system as for output at all connection points of the main transmission system. However, account shall be taken of security of supply. A charge for output in other parts of the transmission system shall be calculated on the basis of reasonable costs, cf. Sub-Paragraph 1 of Paragraph 2, relating to the relevant transmission facilities and the security of supply, in addition to the

expense incurred by the relevant connection point of the main transmission system.

2. Individual final customers connecting to the transmission system shall enjoy more favourable terms of payment if they can demonstrate that their trade improves or has improved the efficiency and use of the system.

In the event that the anticipated income from a new customer does not cover reasonable investment costs or operating expenses, the customer may be required to pay additional costs. The same applies if the underlying premises of the business have changed substantially.

Further provisions on income possibility curves, business terms and tariffs shall be established in a government regulation and shall include provisions on depreciation rules, profit objectives and efficiency requirements.

## CHAPTER IV

### **Distribution**

#### Article 13

##### *Concession for Distribution*

A licence from the Minister is required to construct and operate a distribution system in a specific distribution zone and to cease such operation. Such a licence entails an exclusive licence and an obligation to distribute electricity in the zone in question.

#### Article 14

##### *Conditions of Concessions*

Distribution system operators shall be independent legal and taxable entities.

The Minister may attach mandatory conditions to licences pursuant to Article 13 relating to technical and financial capacity to construct and operate the distribution system, as well as other conditions designed to ensure the security, efficiency and economy of the system as well as environmental protection. The distribution system shall be connected to the transmission system. The Minister may grant exemptions from this condition in special circumstances, e.g. in the case of a small, isolated area. If the distribution system is new, the applicant shall submit a description of the system together with a development plan and demonstrate that the distribution system can be adequately connected with the transmission system, subject to clause 3 above.

#### Article 15

##### *Substance of Concessions*

A concession shall specify, *inter alia*, the following:

1. The delimitation of the zone covered by the concession.
2. The obligation of the power development licence holder to provide information and report to Orkustofnun and the transmission system operator, to the extent necessary for those parties to perform their respective roles hereunder.
3. Safety and environmental protection measures during construction and operation.
4. Conditions relating to the technical and financial capacity of the concessionaire.
5. The disposal of structures and equipment when their use is ceased.
6. Other matters relating to the conditions of the concession and the obligations of the distribution system operator hereunder.

Provisions may be made for review of the licence after a specified period of time, provided that the grounds for the conditions of the licence have changed substantially.

#### Article 16

##### *Activities and Obligations of the Distribution System Operator*

The distribution system operator shall be responsible for the distribution of electricity and system management in his distribution zone. He shall maintain, improve and develop

his distribution system in an economic manner, taking into account security, efficiency, the security of supply and the quality of the electricity.

If the distribution system operator is engaged in activities other than the distribution of electricity, the company shall, in its internal accounting, keep its accounts for distribution separate from accounts for other activities. If the same distribution system operator is responsible for the operation of distribution systems in more than one tariff zone, the company shall, in its internal accounting, keep separate accounts for each zone. If a distribution system operator owns transmission structures, the company shall, in its internal accounting, keep accounts for such structures separate from other accounts. Accounting segregation shall in other respects be subject to Article 41. A distribution system operator shall not subsidise a competing operation in which he is engaged by means of operations relating to distribution or other concessioned operations or operations having a comparable status.

A distribution system operator shall, *inter alia*:

1. Connect all parties that so request to the distribution system, provided that they fulfil the required technical conditions and pay a connection fee specified in the tariff. However, new applicants may be denied access to the system on grounds pertaining to the transmission capacity, security and quality of the system. Such denial of access shall be in writing and reasoned.
2. Ensure reliability in the operation of the system.
3. Provide electricity in compensation for electricity that is lost in the system.
4. Provide reactive power for the system to utilise transmission capacity and ensure voltage quality.
5. Measure or have measured in a precise manner the electricity delivered or received by the distribution system operator in accordance with applicable rules.
6. Supply public authorities, customers and the public with information necessary to assess whether the company is performing its obligations.
7. Operate in a non-discriminatory manner and maintain confidentiality regarding information relating to the business interests of final customers and all other information that should fairly and reasonably remain confidential.

A distribution system operator may require that the use of electricity of individual final customers is measured by continual power monitoring at the expense of the final customer if the use of the final customer does not comply with processes of use or the level of use is high. Final customers and suppliers may request continual power monitoring at their own cost.

In the event that *force majeure* prevents the supply of electricity from meeting demand in the distribution zone, the distribution system operator shall take up rationing of electricity to final customers. Such rationing shall be non-discriminatory and based on objective criteria to be further specified in a government regulation.

The Minister shall issue a government regulation with further provisions on the role and activities of distribution system operators, system management and the connection of power stations to the distribution system.

## Article 17

### *Tariff*

The distribution system operator shall establish a tariff for his services pursuant to an income possibility curve decided by Orkustofnun, cf. Paragraph 2, and requirements in relation to the structure of the tariff pursuant to Paragraph 3. The tariff shall be sent to Orkustofnun two months before taking effect. The distribution system operator shall publish the tariff

Orkustofnun shall establish annually the income possibility curve of individual distribution system operators on the basis of the following criteria:

1. Expenses incurred by the operation of the distribution system operator, including the expense of maintenance, depreciation of assets necessary for the



operation of the system, leasing costs relating to transmission through the transmission system, general operating expenses and expenses incurred by management of the distribution system.

2. The distribution system operator's profitability shall ordinarily correspond to 2% or more, but shall not exceed 2% of the real return on non-indexed five-year government bonds, or comparable securities. Profitability is calculated as the ratio of earnings before financial income, financial expenses and taxes (EBIT) to the book value of fixed assets.
3. Efficiency requirements based on reasonable costs as assessed by Orkustofnun, taking into account the services provided by the company.
4. In the event that the profitability of a distribution system operator for the preceding three years is outside the limits specified in Sub-Section 2, this shall be taken into account in preparing the tariff for the following year.

The Minister shall define the tariff zone in a government regulation. If necessary, the Minister may alter his definition of the tariff zone. Each tariff zone shall have a harmonised tariff for all final customers.

In the event that the anticipated income of a distribution system operator from a new customer does not cover reasonable investment costs or operating expenses, the customer may be required to pay additional costs. The same applies if the underlying premises of the business have changed substantially.

Further provisions shall be established in a government regulation on income possibility curves, business terms, tariffs, provisions on depreciation rules, profit objectives and efficiency requirements.

## CHAPTER V

### **Trade in Electricity**

#### Article 18

##### *Licence to Engage in Trade in Electricity*

A licence is required from the Minister to engage in trade in electricity. Such a licence does not entail a concession or any other privileges for the licence holder. Only independent legal and taxable entities are eligible for such a licence. Applicants shall demonstrate their financial capacity to perform their obligations in relation to the operation.

The Ministry of Industry shall maintain a register of holders of licences who engage in trade in electricity.

#### Article 19

##### *Obligations of Suppliers*

A supplier shall, *inter alia*:

1. Provide the electricity necessary to perform obligations under power contracts.
2. Supply Orkustofnun with information necessary to assess whether the company is meeting its obligations.
3. Pay the transmission system operator for expenses incurred by deviations, cf. Sub-Paragraph 1 of Paragraph 4 of Article 9, in addition to a reasonable administration charge.
4. Report all trade in electricity to Orkustofnun and the transmission system operator.
5. Report the start and termination of business with individual final customers to the distribution system operator.

Suppliers may engage in concessioned activities but may not subsidise their activities as suppliers through their concessioned operations or operations having a comparable status. Companies shall, in their internal accounts, keep their accounts for supplying activities separate from other activities. Accounting segregation shall in other respects be subject to Article 41.

## Article 20

*Trade in Energy*

In the event that a buyer of energy fails to make due payments to the supplier or the distribution system operator, the supply of energy to the buyer may be cut off, provided that the buyer has been notified of the cut-off in writing with due notice. If a final customer is of the opinion that the supplier has failed to perform his obligations pursuant to this Act or government regulations established hereunder, the customer may complain to Orkustofnun.

The buyer of energy may terminate the power contract with three months' notice or shorter notice. Longer notice periods may be negotiated with final customers consuming more than 1 GWh per year.

Further provisions on trade in electricity shall be established in a government regulation. The regulation shall, *inter alia*, provide for the procedures of measuring and settlement between producers, transmission system operators, distribution system operators and suppliers, contain provisions on settlement when changing electricity suppliers, provisions on the cut-off of power supply, on information to be included in invoicing and other relations between distribution system operators, suppliers and final customers.

## CHAPTER VI

**Obligations of Landowners. Provisions on Appropriation and Compensation**

## Article 21

*Right of Passage*

Landowners and possessors of land shall grant producers, transmission system operators and distribution system operators unrestricted access to the property in question if necessary for the preparation of operations under this Act. Power development, installation of electric lines and construction of other facilities pursuant to licences issued hereunder shall not begin until an agreement has been concluded on compensation for the use of land or resources, or an expropriation order has been executed and possession taken of the land.

In the use and utilisation of land under this Act, care shall be taken that development does not endanger or inflict harm on people, property or livestock. Also, care shall be taken not to cause unnecessary pollution or damage to the biosphere. The same applies to the condition in which the site is left if its use is ceased.

## Article 22

*Damages*

If a party holds a right of passage or a right of development on private land under this Act, the landowner may request compensation for demonstrable losses resulting from damage to land, buildings and other property. In the event that no agreement is reached on compensation, the compensation shall be decided by an expropriation appraisal.

## Article 23

*Expropriation*

In the event that a company cannot reach an agreement with a landowner or an owner of energy sources regarding development under this Act, including compensation for the use of land, water rights, rights to geothermal resources or other energy sources, the Minister may expropriate the necessary land, resources, man-made structures, facilities and other rights of the landowner to the extent necessary. The Minister shall deliver the expropriated property to the company in question. The Minister may authorise the company to carry out the expropriation at its own cost.

The Minister may decide that the State expropriate energy sources pertaining to the private property together with the necessary land and facilities if required for utilisation pursuant to Paragraph 1 or to prevent their utilisation from compromising the utilisation of the same energy source outside the property.

If an expropriation pursuant to paragraphs 1 and 2 of part of a property causes

substantial decline of the property in other respects, the landowner may request that the expropriation be extended to the entire property.

In the event that a licence to distribute lapses and an agreement cannot be reached on the use of the distribution system by a new licence holder, the Minister may decide to expropriate the distribution system and turn it over to a new licence holder. The Minister may authorise a licence holder to carry out the expropriation. The licence holder shall bear the entire expense of the expropriation. The same applies to the transmission system, as applicable.

The procedure of expropriation under this act shall be subject to general rules. The determination of compensation for expropriation relating to energy sources shall take particular account of uncertainty in respect of the energy source and the expense of prospecting and development.

## CHAPTER VII

### **Regulation and Remedy**

#### Article 24

##### *Regulation by Orkustofnun [National Energy Authority].*

Orkustofnun shall regulate the compliance of companies operating under the provisions hereof with the conditions of this Act applying to such operation, government regulations established pursuant to this Act, agreements pursuant to Article 8 and other authorisation. Orkustofnun shall consult with the Competition and Fair Trade Authority on the regulation of the operation and tariffs of transmission system operators and distribution system operators, as applicable.

Orkustofnun shall consult with parties subject to regulatory monitoring concerning the implementation and development of the monitoring. For this purpose, a special consultation committee shall be formed consisting of the representatives of parties subject to regulatory monitoring. Orkustofnun shall hold regular meetings with the consultation committee. The consultation committee has no power of decision in matters concerning Orkustofnun. Further provisions regarding the consultation committee shall be laid down in a government regulation, including provisions on its composition.

Orkustofnun may appoint an accredited inspection body to perform such monitoring pursuant to Paragraph 1 on its behalf under the Measures, Weights and Accreditation Act. Monitoring by accredited inspection bodies shall be further provided for in a government regulation.

#### Article 25

##### Powers of Orkustofnun

Orkustofnun may require parties subject to regulatory monitoring to submit all information and data needed for such monitoring. Such data and information shall be delivered within a reasonable deadline established by Orkustofnun. Orkustofnun may also stipulate that these parties shall regularly inform the Authority of matters which are important for monitoring. Orkustofnun may also request parties subject to regulatory monitoring to establish internal controls pursuant to requirements established by the Authority.

Orkustofnun may, for the purpose of its regulatory activities, request information and data from other public authorities, notwithstanding their obligation to maintain confidentiality.

Orkustofnun may, in the course of its investigations, perform necessary inspections of the places of business of parties subject to regulatory monitoring and seize documents when there is strong reason to believe that the provisions hereof, government regulations established hereunder, the conditions of a licence, the provisions of an agreement pursuant to Article 8 or other authorisation have been violated. The provisions of the Code of Criminal Procedure regarding search and seizure of property shall apply to the carrying out of such actions.

## Article 26

*Remedies of Orkustofnun*

In the event that Orkustofnun is of the opinion that an operation subject to regulatory monitoring does not conform to the conditions hereof, government regulations established hereunder, the provisions of an agreement pursuant to Article 8, the conditions of a licence or other authorisations, the Authority may require rectification subject to the imposition of daily fines. The daily fines may be in the range of ISK 10,000 to ISK 500,000. The nature of the negligence or violation may be taken into consideration in the determination of daily fines. The party in question shall be notified of a decision to impose daily fines by letter in a verifiable manner. Decisions to impose daily fines are enforceable by law, as is the cost of enforcement. Collected daily fines shall accrue to the Treasury, net of collecting costs. In the event that a licence holder fails to comply with the instructions of Orkustofnun, the Authority shall inform the Minister regarding the matter.

In the event that Orkustofnun is of the opinion that a tariff submitted to the Authority does not meet requirements hereunder or government regulations established pursuant to this Act, the tariff shall not take effect until the matter has been rectified in the opinion of the Authority. Orkustofnun may also request the transmission system operator and distribution system operators to amend their tariffs under penalty of daily fines.

## Article 27

*Regulation by the Competition and Fair Trade Authority*

The Competition Act shall apply to business activities covered by this Act.

If a company engages in the generation or sale of electricity, it shall not subsidise such activities by concessioned operations conducted by the company or operations having a comparable status. In order to prevent such subsidies, the Competition Authority may require financial separation, including separation of companies between competing and concessioned operations or operations having a comparable status.

## Article 28

*Regulation of the quality of electricity and security of delivery*

Producers, the transmission system operator and distribution system operators shall establish internal controls on the quality of electricity and security of delivery.

A government regulation shall specify the requirements to be met by internal controls pursuant to Paragraph 1 and their arrangement, including monitoring by accredited inspection bodies.

## Article 29

*Confidentiality*

Employees of institutions performing regulatory monitoring hereunder are subject to confidentiality. They are under obligation, subject to accountability under the provisions of the General Penal Code concerning infringements in public office, not to disclose to outside parties any information of a confidential nature that may come to their knowledge in the course of their work regarding the business and operations of the parties subject to their monitoring. The same applies to experts employed by institutions or other parties engaging in regulatory monitoring on their behalf, e.g. the employees of accredited inspection bodies.

## Article 30

*Appeals Committee on Electricity*

Administrative decisions made by Orkustofnun on the basis of this Act regarding tariffs or the activities of the transmission system operator and distribution system operators may be appealed to the Appeals Committee on Electricity.

The Committee is composed of three members appointed by the Minister of Industry and an equal number of alternates. The Chairman and his alternate shall meet the qualification requirements of Supreme Court judges. The term of office of the Committee shall be four years.

Appeals to the Committee shall be in writing and submitted within 30 days immediately following the date on which the party in question was notified of a decision.

The institution responsible for the appealed decision shall provide the Committee with all data concerning the case, including any information and explanations regarded by the Committee as necessary from the institution.

The Committee may call on experts for consultation and assistance if necessary, who shall work with the Committee on the preparation and process of the case as decided by the Chairman.

The Committee shall return a decision as soon as possible and, on principle, no later than two months following receipt of the appeal.

The Chairman shall preside over the activities of the Committee. In the event that the Committee cannot reach a consensus, decisions in cases shall be reached by majority vote.

Committee members are subject to confidentiality pursuant to Article 29.

To the extent not otherwise stipulated hereunder, proceedings shall be subject to the Administrative Procedure Act. The Minister may provide in greater detail for process and the working procedures of the Committee in a government regulation.

The Committee is independent in its work and its decisions cannot be appealed to other administrative authorities.

In the event that a party wishes to submit a decision made by the Committee to a court of law, the submission shall take place within six months immediately following the date on which the party in question received notification of the Committee's decision. Referral to a court of law does not postpone the legal effect of the decision.

Decisions which may only be appealed to the Committee may not be referred to a court of law until the Committee has returned its decision. However, this no longer applies after six months have passed from the time that the appeal was submitted to the Committee without a decision being reached on the case.

## Article 31

### *Fees*

In order to meet costs incurred by regulatory monitoring hereunder, the following fees shall be collected:

1. The transmission system operator shall pay a fee of 0.3 *aurar* per kWh of electricity fed into the transmission system.
2. Distribution system operators shall pay a fee of 0.7 *aurar* per kWh of electricity received from the transmission system or directly from power plants.

Before 15 September each year, the Director General of Orkustofnun shall submit a report to the Minister of Industry concerning the projected operating costs for the following year for the regulatory purposes established hereunder. The report shall, furthermore, contain an assessment of the development of the regulatory monitoring over the previous three years. The report shall be accompanied by a report prepared by the consultation committee of parties subject to regulatory monitoring, appointed under the provisions of Article 24, concerning the projected scope of activity of the following year together with the opinion of the Director General of Orkustofnun concerning the report. To enable the consultation committee to prepare its report, Orkustofnun shall, no later than 15 August each year, provide the committee with information on the projected scope of activities and shall include comments on the principal operating items. If the conclusion of the report gives rise to a change in the fees under Paragraph 1, the Minister of Industry shall submit a Bill thereto to the Althing.

Orkustofnun is responsible for the collection of these fees on behalf of the Treasury. The payment date shall be 1 August of each year for the calendar year, based on actual figures

for the first half of the year and projections for the second half. The calculation for the following year shall take account of the deviation of actual figures from the projections for the second half of preceding year. Enforcement procedures may be initiated to enforce payment of the fees without previous court decision, ruling or conciliation.

Parties subject to regulatory monitoring shall pay costs incurred by the regulatory surveillance of accredited inspection bodies, provided that the surveillance is not conducted by sampling.

## CHAPTER VIII General Provisions on Licensing

### Article 32

#### *Assignment of Licensing Authority*

The Minister may assign, in part or in full, its licensing authority to Orkustofnun pursuant to Paragraph 1 of Article 4, Paragraph 2 of Article 9, Article 13 and Paragraph 1 of Article 18, in which case Orkustofnun shall also exercise the Minister's powers under Article 36.

### Article 33

#### *Fees for the Issue of Licences*

A fee shall be paid to the issuer of a license to cover the cost of preparing and issuing licences pursuant to this Act:

1. A fee shall be paid for a development licence, pursuant to Article 4. The fee shall consist of a fixed charge of ISK 10,000 and a factor which is proportionate to the size of the power plant and amounts to ISK 10,000 per MW.
2. A fee shall be paid for a licence to construct and operate a distribution system, pursuant to Article 13. The fee shall consist of a fixed charge of ISK 50,000 and a factor which is proportionate to population figures in the distribution zone and amounts to ISK 10 per resident.
3. A fee of ISK 50,000 shall be paid for a licence to engage in trade in electricity, pursuant to Article 18.

### Article 34

#### *Procedure*

Licences under this Act shall be granted on the basis of an application evaluated in an objective and transparent manner.

The Minister shall request the comments of Orkustofnun prior to granting development licences, licences for the construction of transmission structures or electricity distribution concessions. Furthermore, the Minister shall request the comments of the municipality in question prior to granting an electricity distribution concession. Comments shall be delivered within two months following the receipt of a request for the comment.

The Minister shall advertise the application by a notice in the *Official Gazette*, where all interested parties are given an opportunity to inspect the application and submit their views within four weeks from the publication of the notice. The applicant shall bear the cost of the publication of such notice.

Any refusal to grant a licence pursuant to this Act shall be reasoned.

## Article 35

*Assignment of Licences*

Licences pursuant to this Act shall not be assigned nor shall they be used as security for financial obligations except with the permission of the Minister.

## Article 36

*Revocation of Licences*

In the event that the Licence holder fails to comply with the conditions set forth in this Act, regulations issued hereunder, contracts relating to the licence or other authorisation, the Minister shall issue a written warning and allow a reasonable deadline to make amends. In the event that the licence holder does not heed the warning of the Minister within the specified period the Minister may revoke the licence or change its provisions. In the event of a serious violation or negligence on the part of the licence holder or if it is clear that the licence holder is unable to fulfil his obligations pursuant to the licence, the Minister may revoke the licence without prior notice.

## CHAPTER IX

**Further Provisions**

## Article 37

*Central Administration*

Issues under this Act are subject to the supreme authority of the Minister of Industry.

Administrative decisions of Orkustofnun which cannot be appealed to Appeals Committee on Electricity pursuant to Article 30 may be appealed to the Minister of Industry. An appeal to the Minister of Industry shall be in writing and submitted within 30 days of the date that the party in question was notified of a decision. In other respects, due process shall be subject to the provisions of the Government Administration Act.

## Article 38

*Development of State-Owned Land*

The Minister is authorised to negotiate with the transmission system operator, and with parties granted licences under this Act to undertake developments on state-owned land, for payment for use of the land and the resources in question at any time. The party who has custody of the property shall be consulted.

Development of public land is subject to the legislative provisions on public land and the determination of boundaries of private land, public land and highland pastures.

## Article 39

*Energy Report*

The Minister shall submit a report on energy issues to the Althing every four years. The report shall contain, *inter alia*:

1. An overview of the sale and use of electricity in the preceding four years.
2. Electricity needs and an overview of probable long-term trends on the basis of electricity forecasts and plans for energy-intensive industry and other activities not covered by the electricity forecast.
3. Research of energy resources and their preparation for the generation of electricity.
4. Electricity generation in light of electricity needs and the security of the electricity supply system.
5. Strengthening of the transmission system based on increased electricity needs.
6. Quality of electricity, with regard, *inter alia*, to delivery security.
7. The national importance of proposed electrical power developments and their effects on the economy and habitation in Iceland.

## Article 40

*Granting of Research Licences*

The Act on Research and Utilisation of Underground Resources applies to licences for the investigation of and research into energy sources in preparation for electricity generation. In addition to the conditions listed therein, applicants for research licences shall submit an evaluation on how a proposed power plant may be connected to Iceland's electricity supply system.

## Article 41

*Annual Accounts*

The annual accounts of parties covered by the provisions of this Act are subject to the Annual Accounts Act.

In the event that a company is under obligation, pursuant to this Act, to maintain separate accounts for its different activities in its books, each activity shall be accounted for separately in the annual account. The itemisation shall be reported to Orkustofnun in the form decided by the Authority.

Joint operating revenues and operating expenses which cannot be attributed directly to a single activity shall be allocated in accordance with generally accepted accounting standards, provided that the allocation rules have been approved by Orkustofnun. Comparable rules apply to the allocation of joint depreciations and joint fixed assets.

In the event that Orkustofnun does not accept a company's rules of allocation pursuant to Paragraph 3, the Authority shall return a reasoned decision thereto within 6 weeks from the date that the Authority received a request for the approval of allocation rules and Orkustofnun shall then decide the allocation rules on the basis of the following principal criteria:

1. Fixed assets which cannot be attributed directly to a single activity shall be allocated to each activity based on the ratios of the book value of the fixed assets which are attributable.
2. The depreciation of the non-attributable assets shall be allocated in the same proportions as those which are attributable.
3. Operating revenues and operating expenses which cannot be attributed directly to a single activity shall be allocated based on the proportions of those revenues and expenses which are attributable.

In the event that a producer operates a geothermal power plant which generates electricity and delivers other energy, such as hot water or steam, cf. Paragraph 1 of Article 7, the company shall account for the results of individual operating units in the Annual Accounts. Orkustofnun shall be provided with a report of the results in the form determined by the Authority. Calculations of the results of individual operating units and the allocation of joint costs shall be in accordance with generally accepted accounting standards, provided that the allocation rules have been approved by Orkustofnun. Comparable rules apply to the allocation of joint depreciations and joint fixed assets.

In the event that Orkustofnun does not accept a company's rules of allocation pursuant to Paragraph 5, the Authority shall return a reasoned decision thereto within 6 weeks from the date that the Authority received a request for the approval of allocation rules and Orkustofnun shall then decide the allocation rules on the basis of the following principal criteria:

1. The joint aspects of the profit and loss account and balance sheet referred to in Paragraph 3 shall be allocated in proportion with the value of the energy delivered.
2. The value of the energy, cf. Sub-Paragraph 1, shall be based on the average ex-plant price of electricity in sales for general use in Iceland, taking account, however, of agreements with final customers using more than 100 GWh annually.
3. To determine the value of other forms of energy, cf. Sub-Paragraph 1, such as



hot water and steam, Orkustofnun shall define a reasonable unit price of such energy on delivery from the power plant. To this end the Authority shall take account of the price of the energy when it is delivered to the buyer, but less the cost of its transmission, distribution and sale. It should moreover be taken into account, in the determination of this price, that the proportion of return from fixed assets tied up in the geothermal power plant should be similar irrespective of whether it relates to electricity generation or other energy generation.

The Minister may issue a regulation with further instructions on accounts separation, including what information should be included in the annual financial reports of companies covered by the provisions of this Article, and on the basis to be applied in allocations among different activities.

#### Article 42

##### *Insurance*

The Minister may require parties operating on the basis of this Act to take out liability insurance from a recognised insurance company, obtain a bank guarantee or provide such other surety as the Minister may consider equivalent and sufficient to compensate for potential damage caused by their activities. The liability insurance, including the minimum amount and insurance terms, shall be further provided for in a government regulation.

#### Article 43

##### *Sanctions*

Violations of the provisions of this Act are punishable by fine, unless more stringent sanctions apply under other legislation. In the event of a violation in the course of the activities of a legal entity, the legal entity may be fined in accordance with Chapter II A of the Penal Code.

#### Article 44

##### *Authorisation for the Issue of Regulations*

The Minister is authorised to lay down further provisions for the implementation of this Act by means of a government regulation

#### Article 45

##### *Entry into Force*

This act is effective immediately and shall be implemented 1 July 2003.

### **Interim provisions**

#### **I.**

The Energy Report pursuant to Article 39 hereof shall be submitted to the Althing no later than the year 2005.

#### **II.**

Parties who are authorised, on the effective date hereof, to construct or operate an electric power plant shall retain such authorisation, provided that they fulfil the conditions of this Act.

#### **III.**

Parties who are authorised, on the effective date hereof, to construct or operate a network for the distribution of electricity shall retain such authorisation, provided that they fulfil the conditions of this Act.

#### IV.

Until and including 31 December 2003, only those parties purchasing 100 GWh of electricity or more annually may purchase electricity from parties other than the distribution system operator in their distribution zone. From 1 January 2005, final customers who are power measured and use more power than 100 kW may purchase from the electricity supplier of their choice. From 1 January 2007 all parties shall be entitled to select the electricity supplier of their choice. Distribution system operators are under obligation to sell electricity to final customers who do not have the option of choosing an electricity supplier as a result of this transitional provision.

The tariffs of the distributions system operators which are effective on the date of the entry into force of this Act shall, notwithstanding the provisions of Article 17 of the Act, remain in effect until 1 July 2004. Distribution system operators may, however, with the approval of Orkustofnun, decide on a tariff reduction. Moreover, distribution system operators may, with the approval of Orkustofnun, raise their tariffs in accordance with changes to the building cost index or verifiable and unavoidable increases in costs which are directly and materially connected with the operation. During this period the tariff zones of the distribution system operators shall be the same as their area of operation.

#### V.

Companies which, under the provisions of the Act, are obliged to maintain separation of accounts for different activities, shall, before 1 September 2003, submit to the Energy Authority a draft Annual Account based on 31 December 2002, together with a report detailing the methods by which the company intends to meet the conditions of Article 41. In the event that the Energy Authority is of the opinion that the Annual Account is not consistent with the Act or government regulations under the Act, the Authority shall issue instructions on the changes to be effected.

Assessment of fixed assets and preparation costs shall be based on book value as at year-end 2002 pursuant to the audited annual account. The same accounting standards shall be used in their assessment as the companies have used in the preceding years.

#### VI.

From the date of entry into force of this Act until year-end 2009, a consultation committee on the implementation of the Act shall be in place. The role of the consultation committee shall be to promote effective implementation of the Act and active exchanges of views among the principal parties affected by the Act. The Committee, consisting of seven members, shall be appointed by the Minister of Industry. The Energy Authority, the Confederation of Icelandic Employers, the Consumer's Association and the Federation of Icelandic Municipalities shall nominate one member each. Samorka (association of electrical, heat and water utilities) shall nominate two members and one member shall be appointed without nomination to serve as chairman of the Committee.

#### VII.

On the date of entry into force of this Act, the Minister of Industry shall appoint a committee composed of representatives from all the political parties currently represented in the Althing. The committee shall furthermore include five representatives from Samorka, two from the Federation of Icelandic Municipalities and one each from the Icelandic Federation of Labour, the Federation of State and Municipal Employees, the Confederation of Icelandic Employers and the Consumer's Association. In addition, the Minister of Finance shall appoint one member and the Minister of Industry shall appoint two members, one of which shall be the Chairman of the committee.

The role of the committee is to submit a proposal on the arrangement of the electricity transmission, including the size of the transmission system and how the operation of the transmission system and system management should be organised so that the safety,

effectiveness and efficiency of the system is best ensured. Furthermore, the committee shall submit recommendations on the structure of the electricity transmission tariff. Moreover, the committee shall submit recommendations on the manner in which costs for the transmission and distribution of electricity should be equalised.

The committee shall submit its proposals to the Minister of Industry, in the form of a legislative bill, no later than 31 December 2003.

### VIII.

The provisions of Chapter III herein shall enter into effect on 1 July 2004, except as otherwise provided for in this interim provision. The same applies to Sub-Paragraphs 6 and 9 of Article 3, and Paragraph 3 of Article 5 herein. Until such time, this interim provision shall apply to electricity transmission.

During the time that this provision is effective, the transmission system shall consist of the electrical lines, and facilities connected therewith, which transmit electricity at 66, 132 and 220 kV and which belong to Landsvirkjun on the date of entry into force of this Act, including any additions after such date at 132 kV or higher for the purpose of increasing transmission through this system, but excluding radial lines from the system. The same applies to the lines of other parties at this voltage whose addition to the transmission system has been negotiated with Landsvirkjun. Landsvirkjun requires authorisation from the Minister of Industry to construct new transmission lines.

An agreement on connection to the transmission system shall be in effect when an application is submitted for a development licence. A power station connected to a distribution system must previously have negotiated with the transmission system operator concerning remuneration for spinning reserves and connection fees. Orkustofnun shall ensure that the charge is based on objective and transparent criteria and that it is non-discriminatory.

Landsvirkjun shall be responsible for electricity transmission and system management in accordance with the provisions of Article 9 herein.

Landsvirkjun shall, in its books, keep accounts for electricity transmission separate from accounts concerning other activities. The same applies to system management accounts. Electricity transmission and system management shall be subject to an independent governing body.

Landsvirkjun shall prepare a tariff for its services which shall be published following approval by Orkustofnun. The tariff shall cover costs which are directly and materially connected with electricity transmission and system management, including costs relating to spinning reserves, maintenance and depreciation of assets necessary for the operation of the system, cost of energy losses and general operating expenses. Furthermore, Landsvirkjun is authorised to reserve for itself a reasonable return on the capital tied up in the transmission system and system management.

Landsvirkjun shall determine a charge for connection to the transmission system and a charge for input, on the one hand, and output, on the other hand, at each connection point of the transmission system. The same tariff shall apply to input and output at all connection points. However, a final customer using 100 GWh or more electricity annually may negotiate the price of transmission with the transmission system operator. Such agreements shall be based on objective and transparent criteria and may not, in the opinion of Orkustofnun, cause an increase in the transmission costs of other final customers. In the event that the anticipated income from a new customer does not cover reasonable investment costs or operating expenses, the customer may be required to pay additional costs. The same applies if the underlying premises of the business have changed substantially.

*Adopted by the Althing on 15 March 2003*