

State Energy Regulatory Commission
Partnership between SERC and BPU, New Jersey
September 8-12, 2003
Sofia, Bulgaria

**SERC's Legislative Mandate
Regarding Price Proposals,
Setting and Approval**

1. Sources:

□ Energy and Energy Efficiency Act

Bylaws :

- Regulation for Forming and Applying Electricity Prices and Tariffs
 - Regulation for Forming and Applying Heat Prices and Tariffs
 - Regulation for Forming and Applying Natural Gas Prices and Tariffs
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2. Powers according to EEEA:

- ❑ Approves the prices formed by the energy companies (Art. 16, par. 1, p.10 EEEA)
 - ❑ Controls the adherence to license conditions and price formation principles and rules (Art. 16, par. 1, p. 8)
 - ❑ Obliges the energy companies to revise the proposed prices in accordance with the binding price formation principles and rules (Art. 23, par. 2 EEEA)
 - ❑ May oblige the energy companies to prepare and present price proposals (Art. 24 EEEA)
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3. The price forming principles are specified in the Act (Art. 22 EEEA):

- 1.** Equal footing of users and equal footing of producers;
 - 2.** Conforming with the economically justified costs, including the costs for the following:
 - a) maintenance of backup and control capacity, required for reliable electricity, heat and natural gas supply;
 - b) supplying and maintaining fuel stocks;
 - c) environmental protection, nuclear safety and decommissioning of the nuclear power plant;
 - d) recovering the economically justified investments, including repair and rehabilitation programs, and energy savings;
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- 3. economically justified profit;**
 - 4. costs ensuing from additional obligations imposed by the competent state authorities;**
 - 5. prohibition for cross-subsidizing among different groups of producers.**

The transfer company, or the respective distribution company buys electric power and thermal energy produced from renewable energy sources and from combined electric and heat energy production plants at a preferential price (Article 22, paragraph 2. EEEA)

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- The provision of Article 20, paragraph 2 of the EEEA delegates to the Council of Ministers the competency to determine the mandatory rules for setting and enforcement of the prices of electric power, thermal energy and natural gas, including the quantities and preferential prices of electric power and thermal energy generated by Water Power Plants and plants for combined generation of electric power and thermal energy.

 - On the above ground the Council of Ministers by its Decree No. 53/2002 adopted the above-mentioned Regulations
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4. Disadvantages :

- The powers of the Commission as specified above do not ensure completely its independence, i.e. it does not have the power to adopt autonomously bylaws regulating the regulatory rules, including the rules on prices.
 - Prices regulation is a relatively new activity and is being applied in a changing environment. This requires frequent amendments and supplements to the rules so as for the decisions for approval of prices to be in full compliance. Making amendments to the bylaws adopted by the Council of Ministers takes a long time.
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5. Development of the statutory framework :

- ❑ The National Assembly adopted at first reading a draft of a new Energy Act, which provides for liberalizing energy markets.
 - ❑ The electric power and natural gas markets will be opened gradually until 2007.
 - ❑ There is a provision of a mechanism of bilateral contracts between producers and privileged users with a market of balancing energy and option for establishing an exchange.
 - ❑ The regulatory powers of the Commission are expanded, however it does not yet acquire the required independence – financial autonomy and the right to adopt bylaws.
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6. Powers of the Prices Regulation Commission pursuant to the Energy Draft Act:

- It regulates the prices in the cases provided for by law
 - Prepares and exercises control over the application of the methodology for determining the prices of the balancing electric power as a part of the commerce rules;
 - Considers requests of energy companies for compensation of stranded costs and makes decisions on their amount and the method of compensating them
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The following prices are subject of regulation :

- *The prices at which producers sell electric power to a public supplier and/or public procurers;*
 - *The prices at which a public supplier sells electric power to public procurers, to users connected to the transfer network, and to the transfer, or distribution company respectively, for covering the technological expenses for the transfer;*
 - *The prices at which public procurers sell electric power and natural gas to users connected to the respective distribution networks;*
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**The following prices are subject of regulation
(continued)**

- ❑ The prices at which producers sell thermal energy to the heat transfer company;
 - ❑ The prices at which the heat transfer company sells thermal energy to users;
 - ❑ The prices at which the public supplier sells natural gas to public procurers of natural gas and to users connected to the gas transfer network;
 - ❑ Prices for transfer of electric power and natural gas along the relevant transfer and/or distribution networks, with the exception of prices for transiting;
 - ❑ Prices for connection to networks;
 - ❑ Prices for natural gas storage.
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The draft act stipulates the principles for regulation, and again the Council of Ministers is delegated the right to determine:

- ❑ The price regulation methods,
 - ❑ The rules for their setting or determining and changing,
 - ❑ The order for:
 - providing information,
 - putting forward price proposals and
 - approval of prices
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Regulation principles (Article 21 of the Energy Draft Act):

- ❑ Avoidance and not allowing for restriction or distortion of competition on the energy market;
 - ❑ Ensuring balance between the interests of energy companies and users;
 - ❑ Ensuring equal footing between the different categories of energy companies and between the different categories of users;
 - ❑ Devising incentives for efficient activities of regulated energy companies;
 - ❑ Devising incentives for the development of a competitive market for activities in the energy sector where suitable conditions exist.
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Price regulation principles (Article 29 of the Draft Energy Act):

- The prices are non-discriminatory, based on objective criteria and set in a transparent manner;
 - The energy companies' prices should recover the economically justified costs of their activities, including the costs for:
 - a) management, operation and maintenance of energy facilities;
 - b) maintenance of backup and regulating facilities required for reliable supply to users;
 - c) supply and maintenance of fuel stocks;
 - d) repairs;
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- ❑ e) depreciation;
 - ❑ f) storage and processing of waste nuclear fuel and radioactive waste, decommissioning of nuclear facilities and nuclear safety;
 - ❑ g) achieving energy efficiency and environmental protection.
 - ❑ Beyond the costs under item 2 above, the prices should include stranded costs relating to the transition to competitive energy market, as well as those resulting from fulfillment of obligations to society relating to supply security.
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- ❑ Prices should ensure economically justified rate of return of own capital
 - ❑ Prices for different groups of users should correlate to the costs of supply of energy and natural gas to those users;
 - ❑ Not allowing cross-subsidizing through the prices :
 - ❑ a) among the different groups of users;
 - ❑ b) for integrated energy companies – among different activities subject of licensing under this Act, and/or between activities subject of licensing under this Act and other activities.
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