

# ***DISPUTE RESOLUTION***

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# General overview

## EU legal framework

**Treaty establishing Energy Community (2006)**

*Directive 2003/54/EC ...on internal market in electricity*

*Directive 2003/55/EC on internal market in natural gas*

## Serbian legal framework

*Energy Law (2004)*

*General Conditions on Electricity Delivery (2005)*

*General Conditions on Natural Gas Delivery (2006)*

*AERS' Methodology for determination of criteria and determination of costs for connection on system for transportation/distribution of  
-electricity - natural gas (2006)*

*Law on General Administrative Procedure (1997)*

*Law on Administrative Litigation (1996)*

## EU legislation

**art. 23/25** ..“Any party having a complaint against TSO or DSO, LNG, with respect **connection and access to networks**, may refer the **complaint to the regulatory authority** which, acting as a **dispute settlement authority, shall issue a decision** within two months after receipt of complaint...Such decision shall have binding effect unless and until overruled on appeal”.

**art. 20/21** ...Member States shall ensure the implementation of the TPA to transmission/distribution system based on published tariffs...

....MS shall apply objectives of fair and open access, in accordance with the relevant legal instruments, with the goal of achieving competitive market.

....TSO/DSO may refuse access where it lacks the necessary capacity or lack of connection, where duly substantiated reasons for refusal shall be given for such a refusal

## Serbian Energy Law - Main features of Dispute Resolution

- ◆ Energy Law establishes AERS as dispute settlement instance - AERS shall decide within 60 days upon complaints received against TSO/DSO if requests for connection and access to network have been denied
- ! Energy Law does not contain special procedural provisions for dispute resolution on such appeals → therefore, the provisions deriving from the Law on General Administrative Procedure (LGAP) is to be applied

Due to legal nature of LGAP, AERS' dispute settlement is generally limited on monitoring the **legality of acts and activities** taken by TSO/DSO when processing the requests for connection and access to network

## General Code on Electricity/Natural Gas delivery

- Prescribes necessary requirements for granting connection to trans/distr. system (proof of ownership, technical details) as well as minimal content of TSO/DSO Decision (including costs of connection)
- Request for Connection to T/D system is filed in the following cases:
  - new infrastructure,
  - increase of approved capacity on existing connections
  - separation from the existing connection
  - reconnection



However, the process itself is dealt in accordance with the LGAP

## Connection Dispute Resolution (First Instance Procedure) - LGAP

The host of PROCEDURAL ACTIVITIES set by LGAP are preformed in First instance by TSO/DSO

### procedural activities:

- inquires
- hearing →
- technical reports

### LGAP guiding principles:

- principle of truth
- hearing of app. party
- principle of legality, etc



FACTS are to be determined as "decisive facts" on the basis of all procedural activities preformed



Finally, application of 'MATERIAL LAW'  
Energy law, General Codes, Methodologies

# Connection Dispute Resolution (First Instance Procedure) - LGAP

In case that:

- some of the prescribed procedural rules are not preformed at all or preformed incorrectly (e.g. no hearing, or inquiry conducted without presence of app. party) or
- facts are not sufficiently determined (e.g. insufficient voltage)
- material law is not adequately applied (e.g. cost of connection is not calculated in accordance with Methodology)



AERS shall **annul TSO/DSO' decision** and order **repetition of procedure**, in compliance with the law, General conditions, and other technical acts

# Connection Dispute Resolution (Second Instance Procedure)

Second instance outcomes:

AERS may **change**, **annul** TSO/DTO **decision** (completely/partially),  
or **reject appeal**

TSO/DSO decision

↓ appeal (15 days after receipt)

AERS

↓  
Annul TSO Decision ←

↓  
(returns TSO/DSO for  
repetition of procedure)

→ Change TSO/DSO Decision

↓  
(the app. party may initiate  
administrative litigation  
before Supreme Court)

↓  
Reject appeal

(the app. party may initiate administrative litigation before Supreme Court)



# Connection Dispute Resolution (Litigation)

## Supreme Court

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

↓ petition on AERS decision  
(30 days after receipt)

hearing is not compulsory

Petition accepted

• AERS' decision Annulled ←  
(repetition of procedure)

Petition rejected

→ AERS' decision becomes final

↓  
Petition accepted → Supreme Court rules and AERS' decision is changed (exceptional case)

# TPA ACCESS

- No appeals yet received from Third parties
- Dispute settlement in this cases are to be conducted according to LGPA
- TSO/DSO obliged to allow fair and open access, in accordance with the goal of achieving competitive market.
- TSO/DSO may refuse access where it lacks the necessary capacity or lack of connection, where duly substantiated reasons for refusal shall be given

***Thank you for your attention!***

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