

ENERGY AGENCY OF THE REPUBLIC OF SERBIA

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 <u>does not contain special procedural provisions</u> for dispute resolution on such appeals → therefore, the provisions deriving form 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 <u>connection</u> 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 <u>PROCEDURAL ACTIVITIES</u> 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 "<u>decisive facts</u>" on the basis of all procedural activities preformed

Finally, application of <u>'MATERIAL LAW</u>" Energy law, General Codes, Methodologies

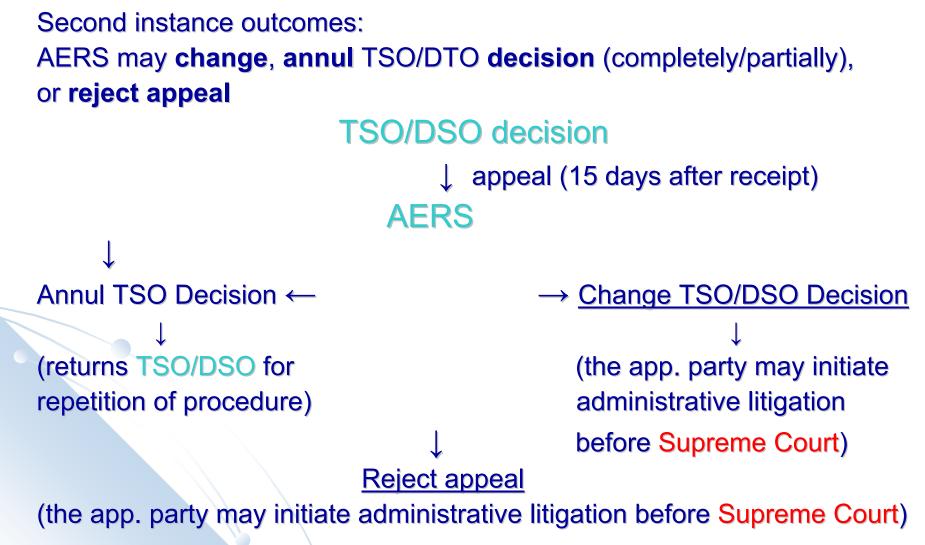
Connection Dispute Resolution (First Instance Procedure) - LGAP

In case that:

- some of the prescribed <u>procedural rules</u> are not preformed at all or preformed incorrectly (e.g. no hearing, or inquiry conducted without presence of app. party) or
- <u>facts</u> are not sufficiently determined (e.g. insufficient voltage)
- <u>material law</u> 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)



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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 Petition rejected Petition rejected \rightarrow AERS' decision Annulled $\leftarrow \rightarrow$ AERS' decision becomes final (repetition of procedure)

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



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Thank you for your attention!

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