

**The IURC-ERE Partnership  
Program**



**DISCUSSION ON LICENSING ISSUES**

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# **DISCUSSION ON LICENSING ISSUES**

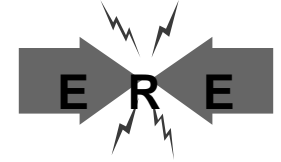
## **ERE Activities**

### **ERE bases its activities on:**

- Law #9072, dated May 22, 2003, and entitled The Power Sector Law
- Related regulations that elaborate on this law

### **The objective of the law:**

- To regulate all aspects of the power sector operations in order to guarantee stable power supply for the consumers at standard parameters and low cost.
- ERE in cooperation with national and foreign organizations is working to develop and support an efficient Power Market Model, which will guarantee:
  - Free competition of all market participants
  - Protection of their interests
  - Protection of the consumers' interests



# **DISCUSSION ON LICENSING ISSUES**

## **ERE Activities**

- **The establishment and development of a market requires:**
  - Structuring of the market
  - Defining the role and position of each operator in the market
  - Licensing of the operators so that they operate in accordance with the license requirements

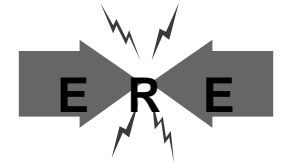


# **DISCUSSION ON LICENSING ISSUES**

**Law #9072, dated May 22, 2003, The Power Sector Law**

**Given authority by The Power Sector Law (Law #9072, dated May 22, 2003), ERE is the organization, which issues licenses for the power sector operators**

- In implementing its authority, ERE conforms to the requirements of Part 3 of the Law
- A number of articles in Part 3 of the Law specify the main criteria, which must be applied in licensing, including:
  - Licensed activities and exceptions
  - Licensing procedures
  - Licensing requirements
  - Notice on applications and remarks on licensing
  - Denying a license
  - Suspension of a license
  - Changes in the licensed status
  - Ban on assets transfers



## **DISCUSSION ON LICENSING ISSUES**

### **Licensed activities in the power sector**

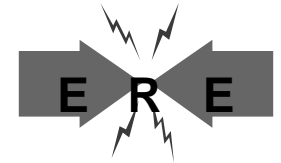
- **ERE licenses the following activities in the power sector:**
  - Contracting, installation and use of the electric stations as well as production of electric power by the stations
  - Transmission of electric power
  - Distribution of electric power
  - Supply and trade of the electric power in any form
  - Export of electric power out of the territory of Republic of Albania
  - Import of electric power within the territory of Republic of Albania



## **DISCUSSION ON LICENSING ISSUES**

### **Licensed activities in the power sector**

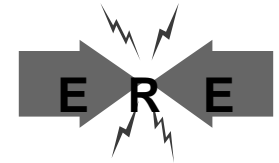
- **With regard to these types of licenses, the law has provided for the following exceptions:**
  - A transmission license is issued to only one public company  
After the separation of OST from KESH, which was integrated vertically (production/transmission/distribution), ERE licensed OST for transmission
  - ERE has issued a distribution license to only one company in a specific service area.  
ERE has issued a license for electric power distribution to the distribution company KESH, because at this time distribution is supported only by KESH
  - A special license is issued to a company that is engaged in a number of activities, which are subject to licensing  
Based on this, ERE licensed a generation company for “the production of electric power”. This company is now part of KESH.



## **DISCUSSION ON LICENSING ISSUES**

### **Licensed activities in the power sector**

- While issuing licenses to power generators and distribution companies, which are still part of KESH, ERE has defined requirements for each licensed company, including separate accounts and a demand to avoid:
  - **Inter-subversions**
  - **Distortion of competition**
  - **Discrimination**



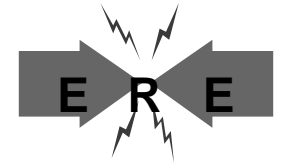
# **DISCUSSION ON LICENSING ISSUES**

## **Licensed activities in the power sector**

**Article 8 of the Power Sector Law (Law #9072, dated May 22, 2003) defines the following responsibilities for ERE with regard to licensing:**

- Determine the rules and requirements for issuing, changing, and revoking licenses for production, transmission, distribution, supply, and export/import of electricity
- Resolve disputes between licensed companies and consumers, and among the licensees
- Balance the interests of consumers, government, investors, and other participants in the power market
- Monitor and regulate services of the licensed participants based on the authority given to ERE for inspections and access to documentation and data
- Approve technical working regulation, transmission and distribution of electric power





# DISCUSSION ON LICENSING ISSUES

## ERE licensing procedures

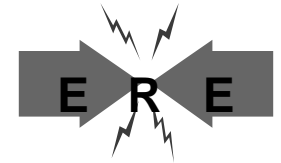
### ■ **ERE licensing procedures**

- ERE issues licenses based on the procedures that guarantee:

- Equal treatment
- Non-discrimination, and
- Complete transparency

during the process of licensing for every type of license application

- In its licensing process, ERE conforms to the Regulation on Licensing Procedures, which is based on Law #9072, dated May 22, 2003 (The Power Sector Law) and approved by the ERE Board of Commissioners



## DISCUSSION ON LICENSING ISSUES

### ERE licensing procedures

- **Regulation includes general and specific procedures for**
  - Applying for, issuing, modification, and termination of a license
  - Who has the right to apply for a license ?  
**“Any person residing in Albania has the right to apply for a license from ERE. Any foreign person that starts a company according to the law, for the entire period provided by the license”**



# **DISCUSSION ON LICENSING ISSUES**

## **ERE licensing procedures**

### **Who can apply?**

### **The necessary information for a license application**

- A license application and required supplementary documentation depend on the type of the license, but have some common specific data:
- General
- Similar requirements for all applicants on:
  - Documents on the identification of the company
  - Legal documents
  - Financial and tax documents
  - Administrative and organizational documents



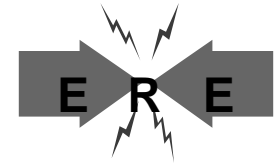
# **DISCUSSION ON LICENSING ISSUES**

## **ERE licensing procedures**

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### **A license application must have the following information:**

- An attachment, which must include detailed information in response to the qualifying criteria
- Specific data in response to the requirements for a particular license type



# **DISCUSSION ON LICENSING ISSUES**

## **License application and the ERE procedures**

### **Public announcement**

- Within 14 days from the submission of an application, ERE publishes an announcement for 2 days in three daily national Tirana newspapers

### **The content of the announcement**

- Brief summary of the application
- An invitation to the interested parties to send their comments to ERE within two months from the first publication
- When the application includes a request for an import/export license, ERE sends the application to the Minister responsible for the power sector
- ERE guarantees that the application and supplementary documents, as well as any additional information, is open for the public. ERE reviews claims of the applicant
- Within two months from the day of the publication, ERE reviews the objectives of the application
- ERE informs the applicant of the objections with regard to his application
- ERE does not consider any objections filed after the scheduled date (2 months from the date of the application)



# **DISCUSSION ON LICENSING ISSUES**

## **License application and the ERE procedures**

### **Step II - review of the documents filed by the applicants**

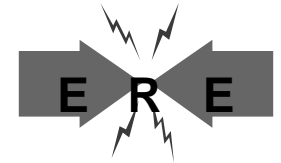
The License Department and the Legal Affairs and Public relation department review and verify the application data. In some cases they make site visits to verify the data. If the applicant does not support the information he provides, ERE does not issue the license.

### **Step III – Drafting a report**

- Both departments prepare a report on the accuracy of the information and present the arguments in support of their recommendation to issue or deny the license
- The reports are presented to the Board of Commissioners of ERE, which will decide whether to issue the license or not.

### **Step IV – The ERE Board of Commissioners reviews:**

- Application and the supplementary documentation, as well as any additional information
- The comments and critique presented by interested parties
- Reports from the two departments

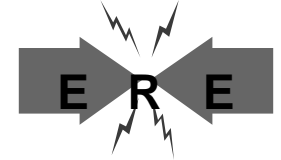


## **DISCUSSION ON LICENSING ISSUES**

**License application and the ERE procedures**

**The Board of Commissioners determines whether the applicant meets the following mandated criteria:**

- Completion and accuracy of the filed documents
- The technical, economic, and financial capabilities of the applicant
- The presence of capable and competent staff
- Safety and protection of the transmission system, distribution grids, and the production facilities
- Environmental protection requirements
- Production and efficient use of the electric power
- Sources of fuel and the proposed technologies for the transformation of energy
- The quality of the consumer service
- Obligations to public service
- Long-term plans for working in the Albanian power sector



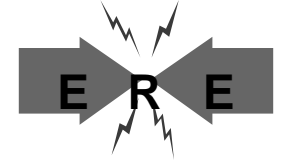
# **DISCUSSION ON LICENSING ISSUES**

## **License application and ERE procedures**

### **Approval or denial of a license**

- ERE Board makes the final decision on approving or denying a license within 30 days from the submission of an application
- The ERE's decision is published in a newspaper. This decision can be appealed by the applicant or by any of the interested parties at the lower level courts of Tirana within 30 days from the day of the publication





## **DISCUSSION ON LICENSING ISSUES**

### **License application and ERE procedures**

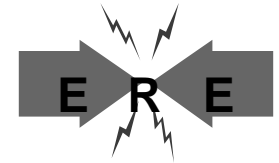
#### **ERE denies a license in accordance with law when it:**

- Determines that there is a risk to life or well-being of people, environment, property of third parties, interests of consumers, or threat to the stability of the supply of electricity

#### **The license is not issued to companies:**

- Which cannot pay their debts or liquidate their debt as required by bankruptcy laws
- Whose license has been revoked or annulled and the suspension period set by an ERE decision has not expired

In case of a denial, the applicant can submit a new license application for the same type of business no earlier than six months after the effective date of the ERE decision, which denied to issue the license based on the previous application



# DISCUSSION ON LICENCING ISSUES

## Construction of a new power plant

- **For the construction of a new power plants the law requires:**
  - Filing an application with ERE for the construction of a new power plant
  - Making an announcement no less than three months from the official filing
- **The announcement contains the following information:**
  - Location of the plant
  - Type of the plant
  - The estimated project cost
  - Timeframe proposed for the construction and use of the plant
  - The power output
  - The opinion of the TSO on the plant's impact on the stability of the overall system
  - For the construction of a power plant the following additional documents are required:
    - Permission of the construction by competent parties (KRT)
    - Permission to use water for the production of power (KKU)



# **DISCUSSION ON LICENCING ISSUES**

## **The licensing model**

### **Main issues**

- **I. General (the main provisions of the law governing licensing)**
  - Technical and economic terminology (with the necessary explanation depending on the license)
- **II. Main requirements for the licensed activity**
  - General requirements applicable to any type of license
  - Specific requirements applicable to the licensed activity



# DISCUSSION ON LICENCING ISSUES

## The licensing model

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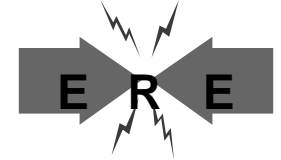
### ■ III. Licensee responsibilities

#### General Responsibilities

- Conforming to law, the decisions of CM, and the rules and regulations of ERE

#### Specific responsibilities

- These responsibilities directly relate to production, transmission, distribution, and supply of electricity
- Relations among the operators

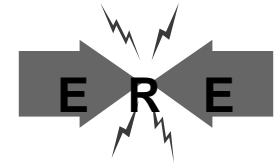


# **DISCUSSION ON LICENCING ISSUES**

## **The licensing model**

(continued)

- **IV. Control over the licensing function; clearly defined responsibilities of ERE**
- **V. Amendment of a license**
- **VI. Suspension or termination of a license**
- **VII. Resolution of conflicts and the right to appeal**



# DISCUSSION ON LICENCING ISSUES

## License termination procedure

**Up to now ERE has not terminated or suspended any licenses**

- Article 18 of the Law states the reasons for terminating a license by ERE
- The power sector regulatory authority can terminate a license when the licensee:
  - Does not fulfill the license requirements
  - Violates the provisions of law on environmental protection
  - Puts life, health, or property at risk
  - Does not pay required fees established by ERE
  - Did not begin operations within the timeframe required by the license
  - Is not able to meet the license requirements for financial reasons
- Recently ERE has issued a regulation, which defines the procedure for terminating a license

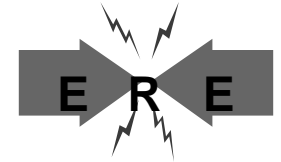
# DISCUSSION ON LICENCING ISSUES



## License termination procedure

- Notifies the licensee in writing about initiating the license termination procedure 60 days before the decision takes effect
- Gives the licensee an opportunity to respond in writing within 30 days from the day of receiving the notice
- If this is in the interests of the general public, ERE allows 30 days after the licensee's response to correct the problem that resulted in termination procedure

# DISCUSSION ON LICENCING ISSUES

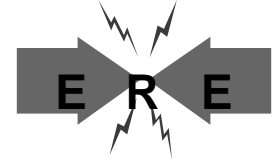


## License termination procedure

- When a license is terminated, in order to continue managing the assets and equipment of the licensee, the following temporary arrangements are made by ERE:
  - Allows the licensee to use its assets and equipment in accordance with agreed terms and conditions
  - Contracts one or several private companies to take over the service
  - Appoints an administrator to manage the property and equipment according to the license
- **These temporary measures continue until the license is given to someone else**
- **When a license is terminated, CM makes a decision on initiating assets' expropriation procedures**



# DISCUSSION ON LICENSING ISSUES



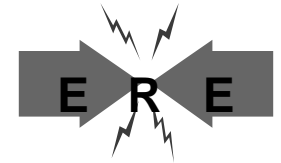
## Ban on asset transfers

**Article 20 of the Law #9072, dated May 22, 2003**

### **Ban on asset transfers states that:**

- No licensee can transfer his business or part of it through sale, pledging, renting, exchange, or any other way without a written approval by ERE

No asset transfers have happened so far



# **DISCUSSION ON LICENSING ISSUES**

## **Application for the status of an eligible consumer**

### **Application for the status of an eligible consumer**

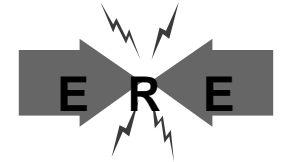
#### **■ Definition of law**

- Any consumer that has annual consumption of 100 GWh and filed an application with ERE for the status of an eligible consumer

#### **■ Supplementary application documents**

- Notarized monthly electric bills for 12 months (to prove the 100 GWh consumption volume)
- Confirmation from the supplier that the applicant has no outstanding debts

# DISCUSSION ON LICENSING ISSUES



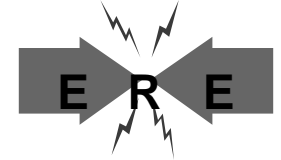
## Application for the status of an eligible consumer

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### Review of documents filed by an applicant

- Department of Licenses and Department of Legal Affairs and Public Relations review and verify the content of the application
- In some cases the application data is verified as well
- Both departments prepare reports on the accuracy of data and state their reasons for the issuing or denial of a licence
- The reviewed application and supplementary documentation are then presented to the ERE Board of Commissioners, which decides on whether or not to grant the eligible consumer status to the applicant

# DISCUSSION ON LICENSING ISSUES

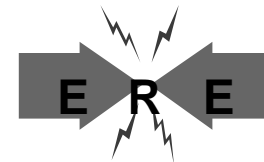


**Application for the status of an eligible consumer**

(Continued)

## **The ERE Board of Commissioners examines:**

- The application and supplementary documentation
- The reports prepared by the two departments
- The Board of Commissioners uses mandatory criteria in making its decision
- The ERE decision to award the eligible consumer status is published in a national newspaper (the licensee pays the cost)



THANK YOU FOR YOUR  
ATTENTION