

Pursuant to the Article 59, paragraph 6 of the Energy Law (“RS Official Gazette”, No. 57/11, 80/11 – corrigendum, 93/12 and 124/12) and pursuant to the Article 42, Paragraph 1 of the Law on Government (“RS Official Gazette”, No. 55/05, 71/05 - corrigendum, 101/07, 65/08, 16/11, 68/12 – US and 72/12),

The Government has hereby passed the following

DECREE

ON INCENTIVE MEASURES FOR PRIVILEGED POWER PRODUCERS

I THE DECREE SCOPE

Article 1

The Decree shall specify the categories of privileged power producers, regulate the incentive measures, define conditions for obtaining the right to use these measures, method of determining of the incentive period, rights and obligations arising from these measures for the privileged power producers and other energy entities and regulate the content of the Power Purchase Agreement and Preliminary Power Purchase Agreement with a privileged power producer.

Article 2

Certain terms used herein shall have the meanings as defined in the Energy Law and in the Decree on Conditions and Procedure for Obtaining the Status of Privileged Power Producer.

II INCENTIVE MEASURES, REQUIREMENTS FOR REALISATION OF INCENTIVE MEASURES AND RELATED OBLIGATIONS OF ENERGY ENTITIES

Article 3

Incentive measures as defined in this Decree are:

- 1) The incentive period of 12 years for each of the power plants of the privileged power producers which have been commissioned less than 12 months before conclusion of the Power Purchase Agreement i.e. the 12 years incentive period reduced by difference between the year of concluding the Power Purchase Agreement and the year of commissioning of all the other privileged producers’ power plants;
- 2) Feed-in tariff at which the privileged producer is entitled to sell total amount of power generated during the incentive period to the Public Supplier;
- 3) The right of privileged producer who had previously acquired temporary status of privileged power producer to sell total amount of electricity generated during the

incentive period to the Public Supplier at feed-in tariff valid at the time of acquiring temporary status of privileged power producer;

- 4) Taking balancing responsibility and balancing costs from privileged producers during the incentive period by the Public Supplier;
- 5) Free of charge monthly notification of a privileged producer and Public Supplier on the electricity generation in the facility of the privileged producer metered by the relevant System Operator during the incentive period;
- 6) The right of a privileged producer to conclude an Agreement with the Public Supplier after the incentive period on purchase of the total amount of produced electric power at conditions on the organized electric power market in the Republic of Serbia.

The incentive period under Paragraph 1, Section 1) of this Article for the privileged producer whose power plant has been commissioned more than 12 months before the conclusion of the Power Purchase Agreement on total amount of generated electricity with the Public Supplier is determined as:

$$N = \max \{0, [12 - (G_u - G_p)]\}$$

where

N – incentive period,

G_u – the year of concluding the Power Purchase Agreement on total amount of generated electricity with the Public Supplier,

G_p – the year of commissioning of the privileged producer's power plant.

Privileged producer whose hydro power plant is older than 40 years is entitled to incentive period under Paragraph 1, Section 1) i.e. under Paragraph 2 of this Article on condition that hydro power plant has been reconstructed, where the date of completion of reconstruction is considered to be the date of commissioning.

Hydro power plant under Paragraph 3 of this Article is, in terms of this Decree, treated as a hydro power plant using existing infrastructure.

Article 4

Only privileged power producers who concluded the Power Purchase Agreement on total amount of generated electricity with the Public Supplier during the incentive period are entitled to incentive measures defined in Article 3, Section 1), 2), 3), 4) and 5).

Only privileged power producers who concluded the Power Purchase Agreement on total amount of generated electricity after the incentive period are entitled to the incentive measures defined in Article 3, Section 6).

Article 5

On request from the power producer with a power plant that uses renewable sources of energy or a coal- or natural gas-fired power plant for combined heat and power production which has not been connected to the system, the Public Supplier is obliged to conclude an Agreement on temporary taking of balancing responsibility and Temporary Power Purchase Agreement, on condition that the producer had met the requirements needed for the connection approval and obtained the use permit, other evidence that the equipment and installations of the power plant meet technical and other requirements or use permit for a trial run.

Temporary Agreement under Paragraph 1 of this Article takes effect from the trial run of the power plant until the concluding of the Power Purchase Agreement on total amount of generated electricity during the incentive period, not exceeding three months, except in case of biogas fired power plants where the Temporary Agreement may take effect for a maximum of nine months.

The producer that has obtained the status of the privileged producer within the period defined in the Paragraph 2 of this Article, as well as within the period of validity of the Temporary Agreement defined in the Paragraph 1 of this Article, shall be entitled to the incentive measures defined in Article 3, Section 1), 2), 3), 4) and 5) of this Decree.

The producer that has not obtained the status of the privileged producer within the period defined in the Paragraph 2 of this Article shall be entitled to sell the electric power to the Public Supplier at the average market price and obliged to pay the balancing costs to the Public Supplier at the price equal to the quotient of total balancing costs of the Public Supplier's balancing entity and total sold power of the Public Supplier.

The average market power price and price of balancing services under Paragraph 4 of this Article shall be determined according to the data on power purchase and balancing services of the Public Supplier during the month previous to the concluding of the Temporary Agreement under Paragraph 1 of this Article and shall be defined in the Temporary Agreement.

Article 6

Rights and obligations of a privileged producer and the Public Supplier during the incentive period shall be regulated by the Power Purchase Agreement on total amount of electricity generated in power plants with installed capacity up to 5 MW and over 5 MW (hereinafter: the Power Purchase Agreement), which shall be concluded in written form.

The content of the Power Purchase Agreement shall be defined in accordance with the Energy Law, Law on Obligation and this Decree, and it shall comprise following elements specifically:

1. Parties to the Agreement and a category of a privileged producer,
2. The Agreement scope, concluding date and expiring date,
3. The point of purchase,
4. The point and the method of metering,
5. Method of determining losses between the point of purchase and the metering point, in case they are not located at the same point,
6. Method of submitting a complaint to the recorded values,
7. Method of determining the scope of production in case of metering device failure,
8. The price of electricity determined according to Articles 13, 14 and 15 of the Decree,
9. Method and dynamics of calculation, billing and payment
10. Interest in case of untimely payment,
11. Method of providing payment guarantee,
12. Methods of communication between the parties to the Agreement,
13. Obligations of the Public Supplier in terms of taking balancing responsibility and obligations of privileged producer in terms of operating plans for the power plant,

14. Obligations of privileged producer in terms of transfer of guarantees of origin to the Public Supplier,
15. List of data with guaranteed confidentiality,
16. Responsibility in case of damage,
17. Method and place of arbitration,
18. List of events considered to be force majeure according to the relevant legal acts,
19. Reasons for temporary termination and conditions for continuation of the Agreement,
20. Terms and conditions of permanent Agreement termination,
21. Conditions of transferring rights and obligations from the Agreement to a third party.

Standard model of the Power Purchase Agreement on total amount of generated electricity shall be prescribed by the Ministry.

The Power Purchase Agreement on total amount of generated electricity may vary from the standard Agreement model under Paragraph 3 of this Article in case of concluding the agreement between both parties and obtaining the written consent issued by the Ministry.

Article 7

Along with the Request for concluding the Power Purchase Agreement on total amount of generated electricity, which must be submitted in writing, privileged producer provides to the Public Supplier a decision on acquiring the status of privileged producer.

The Public Supplier is obliged to conclude the Power Purchase Agreement on total amount of generated electricity with privileged producer within 15 days from the day of submitting the request under Paragraph 1 of this Article.

Privileged producer is entitled to terminate the Agreement under Paragraph 1 of this Article before the end of the incentive period, of which the Public Supplier must be notified in writing at least 30 days before the day of Agreement termination.

Power Purchase Agreement on total amount of generated electricity which has once been terminated by the privileged producer as described in Paragraph 3 of this Article may not be concluded again for the same power plant of the privileged producer.

Article 8

Person who acquired the temporary privileged producer status is entitled to conclude a Preliminary Power Purchase Agreement on total amount of electricity generated in power plants with installed capacity up to 5 MW and over 5 MW (hereinafter: Preliminary Power Purchase Agreement on total amount of generated electricity) with the Public Supplier.

Preliminary Power Purchase Agreement on total amount of generated electricity shall be concluded in accordance with the Energy Law, Obligation Law, Decree on procedure and conditions for obtaining the status of privileged power producers and this Decree and it shall comprise following elements specifically:

1. Parties to the Agreement, type and installed power of the envisaged power plant,
2. The Agreement scope, Agreement concluding date and Agreement expiring date,

3. Obligations of the Person under Paragraph 1 of this Article in terms of deadlines for construction of the power plant and acquiring privileged power producer status,
4. Obligations of the Public Supplier in terms of purchase of total amount of produced power and taking balancing responsibility in case the requirements under Section 3 of this Paragraph have been met,
5. Guaranteed electricity price determined in accordance to this Decree,
6. Methods of communication between the Parties to the Agreement,
7. Terms and conditions of permanent preliminary Agreement termination,
8. Conditions of transferring rights and obligations from the preliminary Agreement to a third party.

Standard preliminary Agreement model under Paragraph 1 of this Article, in accordance with the Paragraph 2 of this Article, shall be passed by ministry responsible for the energy affairs within 60 days from the day of entering into force of this Decree.

Article 9

Along with the Request for concluding the preliminary Agreement on power purchase, which must be submitted in writing, privileged producer provides the decision on acquiring temporary status of privileged producer to the Public Supplier.

The Public Supplier is obliged to conclude the Preliminary Power Purchase Agreement on total amount of generated electricity with privileged producer within 30 days from the day of submitting the request under Paragraph 1 of this Article and the decision on acquiring temporary status of privileged producer.

The person who had concluded the preliminary Agreement under Paragraph 1 of this Article with the Public Supplier is entitled to terminate the preliminary Agreement before the expiring date, of which the Public Supplier must be informed in writing at least 30 (thirty) days before the day of preliminary Agreement termination.

Preliminary Power Purchase Agreement on total amount of generated electricity which has once been terminated as described in Paragraph 3 of this Article may not be concluded again for the same power plant.

Article 10

Privileged producer who had signed the Power Purchase Agreement on total amount of generated electricity with the Public Supplier is a part of Public Supplier's balance group.

Privileged producer under Paragraph 1 of this Article, whose power plant has installed power over 5 MW, is obliged to deliver detailed operation plans to the Public Supplier according to the Power Purchase Agreement on total amount of generated electricity and the Grid Code of the Distribution System.

Article 11

Privileged producer who had concluded the Power Purchase Agreement on total amount of generated electricity with the Public Supplier transfers the guarantees of origin to the Public Supplier during the incentive period.

Article 12

Power metering at the privileged producer who had concluded the Power Purchase Agreement on total amount of generated electricity with the Public Supplier shall be conducted on the first day of each month, free of charge, by the Transmission or Distribution System Operator and the recorded data for the previous month shall be delivered to the privileged producer and to the Public Supplier no later than on the fifth day of the current month.

The Transmission or Distribution System Operator is obliged to read data from the metering device before the conclusion of the preliminary Agreement under Article 5 of this Decree and the Power Purchase Agreement on total amount of generated electricity and deliver the collected data within three days from the day of submitting the request by the privileged producer.

III CATEGORIES OF PRIVILEGED ELECTRIC POWER PRODUCERS AND FEED-IN TARIFFS

Article 13

Feed-in tariff as per Article 3, Paragraph 1, Section 2) of this Decree shall be determined according to the category of privileged producer i.e. depending on the type and the installed power of the power plant which had acquired the privileged producer status.

The power plant type and the installed power are determined by the bylaw on obtaining the status of privileged power producers.

Feed-in tariff as per Paragraph 1 of this Article amount:

Item No.	Type of power plant	Installed power P (MW)	Feed-in tariff (c€/kWh)
1.	Hydro power plant		
1.1		up to 0.2	12.40
1.2		0.2 – 0.5	13.727-6.633* P
1.3		0.5 - 1	10.41
1.4		1 - 10	10.747-0.337* P
1.5		10 - 30	7.38
1.6	Using existing infrastructure	up to 30	5.9
2.	Biomass power plant		
2.1		up to 1	13.26
2.2		1 - 10	13.82 – 0.56*P
2.3		over 10	8.22
3.	Biogas power plant		
3.1		up to 0.2	15.66
3.2		0.2 - 1	16.498 – 4.188*P
3.3		over 1	12.31
3.4	Plant fired by biogas from animal origin waste		12.31
4.	Landfill and sewage gas power plant		6.91
5.	Wind power plants		9.20
6.	Solar power plant		
6.1	roof-mounted	up to 0.03	20.66
6.2	roof-mounted	0.03 – 0.5	20.941 – 9.383*P
6.3	ground-mounted		16.25
7.	Geothermal power plants		
7.1		up to 1	9.67
7.2		1 – 5	10.358-0.688*P
7.3		over 5	6.92
8.	Waste fired power plant		8.57
9.	Coal fired co-generation power plant	up to 10	8.04
10.	Gas fired co-generation power plant	up to 10	8,89

Feed-in tariffs as per Article 13 of this Decree are given in in euro cents per kilowatt hour (c€/kWh) and rounded up to two decimal places.

Regular annual prices correction due to inflation in Eurozone is conducted in February starting from 2014, as follows:

$$C_1 = C_0 * (1 + p_{inf} / 100)$$

where

C_1 – new feed-in tariff,

C_0 – previous feed-in tariff,

p_{inf} – annual inflation in Eurozone declared by the relevant institution in EU, given in %.

Annual inflation in Eurozone under Paragraph 3 of this Article is determined by the ministry in charge of financial issues at the request of the Public Supplier.

Corrected feed-in tariffs determined in accordance with Paragraph 2 of this Article apply from the 1st of March every year to every future agreement concluded between a privileged producer and the Public Supplier, as well as on the rest of the incentive period in all Power Purchase Agreements on total amount of generated electricity which have been concluded before the correction under Paragraph 2 of this Article, after entering into force of this Decree.

Article 15

Correction of feed-in tariffs for natural gas fired co-generation power plants shall be conducted in case of any change in price of natural gas at which the supplier that supplies public suppliers sells natural gas to public suppliers, as follows:

$$C_1 = C_0 * (0.36 + 0.64 * G / 35.59)$$

where

C_1 – new feed-in tariff;

C_0 – feed-in tariff, determined based on tariff “fuel” of 33.59 dinars per m³ included in the price of natural gas at which the supplier that supplies public suppliers sells natural gas to public suppliers, cost of use of natural gas transportation system of Public Enterprise “Srbijagas” Novi Sad not included;

G – new tariff “fuel” included in the price of natural gas at which the supplier that supplies public suppliers sells natural gas to public suppliers, cost of use of natural gas transportation system of Public Enterprise “Srbijagas” Novi Sad not included, given in RSD per m³.

Corrected feed-in tariff under Paragraph 1 of this Article shall be applied from the first day of the following month to every future agreement between privileged producer and the Public Supplier, also to the rest of the incentive period in all Power Purchase Agreements on total amount of generated electricity concluded before the correction under Paragraph 1 of this Article, after entering into force of this Decree.

Article 16

The Public Supplier pays to privileged producer with whom the Power Purchase Agreement on total amount of generated electricity has been previously concluded for the power at the prices defined in Articles 13, 14 and 15 of this Decree in RSD counter value according to the middle exchange rate of National Bank of Serbia on the date of invoicing.

The Public Supplier guarantees collection of receivables to the privileged producer with whom the Power Purchase Agreement on total amount of generated electricity has been concluded during the incentive period.

Article 17

In case of a dispute between a privileged producer and the Public Supplier that cannot be resolved by mutual consent, jurisdiction of the court based in the place in which the agreement is concluded shall be agreed or alternatively any such dispute shall be resolved by arbitration by domestic or international arbitrator.

Article 18

The feed-in tariffs under Article 13 of this Decree shall be determined every third year may be subject to annual verification.

Due to dynamic changes of solar power plants investment costs, feed-in tariffs for privileged producers with this type of power plants shall be determined once a year.

Article 19

In case of power production delay or purchase delay due to force majeure during the incentive period or during the validity period of the Power Purchase Agreement on total amount of generated electricity between privileged producer and the Public Supplier, parties to the Agreement shall have no obligations to one another during the period of force majeure i.e. the Agreement between the Public Supplier and a privileged producer shall be temporarily terminated.

Upon cessation of force majeure the Agreement between privileged producer and the Public Supplier shall continue, and the incentive period shall be prolonged for the time of duration of the force majeure.

Force majeure in terms of Paragraph 1 of this Article implies every unpredictable or unavoidable event which is beyond the power of parties to the Agreement, in particular:

1. Natural catastrophes, such as fire, flood, earthquake, volcanic eruption and other forms of catastrophic weather conditions;
2. War, terrorism, public disorder, disturbance of public order with destructive behaviour, sabotage, vandalism, and other forms of extraordinary social conditions with devastating consequences;
3. Partial or complete disruption of the Transmission or Distribution System, or inability of the Transmission or Distribution System Operator to take over the electricity from privileged producer due to incidental events in the system, inadequate maintenance, delays in the implementation of development plans or other unpredicted grounds.

IV TRANSITORY AND FINAL PROVISIONS

Article 20

Documents under Article 6, Paragraph 3 and Article 8, Paragraph 3 of this Decree shall be passed within 60 days from the day of entering into force of this Decree.

Article 21

Obligations of the Public Enterprise “Public Utility of Serbia” Belgrade specified in Power Purchase Agreements on total amount of generated electricity concluded with privileged producers up to the day of entering into force of this Decree shall be transferred to the Public Supplier according to the Law.

The privileged producer who concluded the Power Purchase Agreement on total amount of generated electricity with the Public Enterprise “Public Utility of Serbia” Belgrade up to the day of entering into force of this Decree is within six months from the day of entering into force of this Decree entitled to submit a written request to the Public Supplier to replace the existing agreement with a new one according to the Law.

Conditions defined by agreements under Paragraph 1 of this Article shall not be changed except in case under Paragraph 2 of this Article.

In case under Paragraph 2 of this Article a privileged producer is entitled to feed-in tariff and other incentive measures defined by this decree within the incentive period.

Article 22

In case that the Public Supplier has not been established up to the day of entering into force of this Decree, all of the Public Supplier’s obligations in terms of providing incentive measures according to the Energy Law and this Decree shall be carried out by the Public Enterprise “Public Utility of Serbia” Belgrade until its establishment.

Article 23

By entering into force of this decree the Decree on incentive measures for power generation using renewable energy sources and co-generation of heat and power (“RS Official Gazette”, No. 99/09 and 124/12) ceases to be valid.

Article 24

This Decree shall enter into force on the eighth day since its publication date in the “Official Gazette of Republic of Serbia” and the regulation under the article 15 shall be applied from the 1st of January 2014.

This decree ceases to be valid on the 31st of December 2015.

05 Number:
Belgrade,

GOVERNMENT

PRESIDENT