

## PROPOSAL

Pursuant to Article 3 paragraph 1 item 4 of the Energy Law (“Official Gazette of Republic of Montenegro”, No. 39/03»), and Article 40, paragraph 3 of the State Property Law (“Official Gazette of Montenegro”, No. 21/09), the Government of Montenegro, during the session held on September 17, 2009, passed the

### DECREE FOR WIND POWER PLANTS

#### Subject of the Decree

##### Article 1

The Decree hereby defines the procedure for measurement and research of the wind potential, method and procedure of leasing land to be used for the measuring site, namely, the wind power plant location, the procedure for construction of the wind power plant and its connection to the electric energy system, as well as the purchase of the electric power.

#### Definition of specific expressions

##### Article 2

Specific expressions used herein shall have the following meaning:

1. *wind power plant* is the plant consisting of one or more wind generators, with accompanying transformer units, power lines and other facilities used for its operations;
2. *wind generator* is a device that converts the wind energy into electric energy;
3. *location for measuring the wind potential* (hereinafter: the measuring site) is the area and land with clearly defined borders wherein the investor is permitted to perform measurements and research of the wind potential;
4. *wind power plant location* is the area and land around and under the wind power plant whose borders are defined by the conceptual design for the construction of the wind power plant ;
5. *an investor* is a person investing the funds and implementing the measuring and researching of the wind potential and construction of the wind power plant.

## **Land for Measuring and Researching of the Wind Potential and Construction of the Wind Power Plant**

### **Article 3**

- (1) Wind power plants may be built on state-owned as well as private land, in accordance with the law.
- (2) State-owned land used for construction of the wind power plant shall be given for lease and the starting lease price shall be defined in the decision of the authorized body.
- (3) If the land used for measuring and researching of wind potential is a private property, the property-legal relations between the investor and the land owner shall be defined by a direct agreement or in accordance with the Law on Expropriation.
- (4) If the land used for construction of the wind power plant is a private property, the property-legal relations between the investor and the land owner shall be defined by a direct agreement or on the basis of the determined public interest by applying the Law on Expropriation.

## **Selection of the Investor**

### **Article 4**

- (1) Procedure for selection of the investor for measuring and researching of the wind potential, construction of the wind power plant and use of the land shall be conducted by means of the public bidding process.
- (2) Procedure referred to in the paragraph 1 of this Article shall be implemented by the ministry accountable for the energy affairs (hereinafter: the Ministry).
- (3) Procedure referred to in the paragraph 1 of this Article shall be launched by the virtue of the program for development and use of the renewable energy sources which is an integral part of the Action Plan for implementation of the Energy Development Strategy or by the initiative of an interested party.

### **Article 5**

Before the public bidding procedure is initiated, the Ministry shall verify the feasibility of the measurements and research performed regarding the wind potential, as well as of the construction of the wind power plant in respect to the aspects of the spatial plan and the connection to the electric power system, as well as the land ownership.

## **Public Announcement**

### **Article 6**

- (1) Public bidding procedure referred to in the article 4 paragraph 1 herein shall be initiated with the public announcement.

(2) The Public announcement referred to in the paragraph 1 of this article, particularly outlines:

- the subject of the public tender,
- measuring site,
- list of documents that need to be submitted with the bid,
- criteria for the selection of the most favorable bid,
- starting price of the lease on the state-owned land,
- period that the lease on the land is given for
- instructions to bidders,
- name of the person responsible for providing the relevant information during the public announcement procedure,
- time and place for obtaining the documentation needed for the preparation of the bid, as well as its price,
- address and the deadline for the bid submission,
- time and place for the opening of bids,
- amount and type of the guarantee submitted with the offer.

### **Implementation of the Public Bidding Procedure**

#### Article 7

- (1) Public bidding procedure in accordance with the public announcement, shall be implemented by the committee consisting of five members.
- (2) The committee shall be formed by the Ministry and shall consist of the following: two committee members from the Ministry, one committee member from the Ministry of Finance, one member from the Ministry for Spatial Planning and Environment and one committee member from the municipality whose territory the land is on.
- (3) Committee referred to in the paragraph 1 of this article shall deliver the report on conducted public bidding procedure as well as the ranking-list of the bidders to the Ministry, with the purpose of submitting the proposal to the Government of Montenegro for issuing the right to measure and research the wind potential, as well as to construct the wind power plants and to lease on the state-owned land.
- (4) The investor that is given the right to measure and research the wind potential, construct the wind power plants and lease on the state-owned land shall sign a agreement with the Ministry.
- (5) The agreement referred to in the paragraph 4 of this article shall particularly contain:
  - agreemental parties,
  - rights and obligations of the agreemental parties,
  - subject of the agreement,
  - conditions, manner, price and period of the lease on the state-owned land,
  - deadlines for research and measuring of the wind potential,
  - deadlines for construction of the wind power plant,
  - conditions for extension of the agreement or return of the land into the original state upon the expiration of the agreement,
  - rights and obligations regarding the undertaking of the measures of general safety, health protection and environment protection, as well as responsibility for damage compensation caused by endangering the general safety and environment protection,
  - procedure for dispute resolution and application of the governing law,
  - other elements relevant to the subject of the agreement.

## Conceptual Design

### Article 8

- (1) Based on the performed measurements and research, the investor shall develop the conceptual design for construction of the wind power plants (hereinafter: the conceptual design), which shall, besides the elements referred to in the article 78 of the Law on Spatial Development and Building Construction ("Official Gazette of Montenegro", No. 51/08), also contain: borders of the location, estimated power of the wind power plant, approximate position of the wind generators, road infrastructure, plan of the high voltage power lines and basic elements of the feasibility study.
- (2) In accordance with the agreement referred to in the article 7 paragraph 5 herein, the investor shall submit to the Ministry the report on results from performed measurements and research, as well as the conceptual design, in order to receive the approval for the conceptual design (hereinafter: the approval).
- (3) Before issuing the approval referred to in the paragraph 2 of this article, the Ministry shall obtain:
  1. opinion of the ministry competent for the spatial development and environment protection on the possibility to construct the wind power plant, in respect to its compliance with the concept of use of the area;
  2. opinion of the transmission or distribution system operator (depending on the voltage level and the power of the wind power plant) on possibilities and conditions for wind power plant connection to the electric power system.
- (4) Upon the request of the Ministry, the authorized bodies are obliged to deliver the opinions referred to in the paragraph 3 of this article not later than 30 days from the date of conceptual design submission.
- (5) By the virtue of positive opinions referred to in the paragraph 3 of this article, the Ministry shall issue the approval that is to be delivered to the investor not later than 60 days from the day when conceptual design was received.
- (6) Borders of the wind power plant location as defined by the conceptual design shall not significantly deviate from the borders of the measuring site.
- (7) Ministry shall deliver the consent referred to in the paragraph 2 of this article to the party executing the preparation works for development and adoption of the plan document.

## **Authorization for Construction of the Wind Power Plant**

### Article 9

Prior to obtaining the construction permit for the wind power plant construction the investor is obliged to obtain the authorization for construction of new production capacities (hereinafter: the authorization) from the Energy Regulatory Agency (hereinafter: the Agency).

## **Request for Obtaining the Authorization**

### Article 10

- (1) The Request for obtaining the authorization for construction of new production capacities shall be submitted by the investor upon obtaining the consent referred to in the article 8 paragraph 5 herein.
- (2) Content of the request from the paragraph 1 of this article and documents that are to be submitted with the request shall be defined by the Agency rules on procedure and criteria for issuing the authorization for the electric power sector of Montenegro.

## **Construction of the Wind Power Plant**

### Article 11

- (1) Procedure of measuring and researching of wind potential and well as the construction of the wind power plant shall be performed in accordance with the technical regulations defined by the Ministry.
- (2) Investor may commence the wind power plant construction works upon obtaining the construction permit in accordance with the law.

## **Connection of the Wind Power Plant to the Electric Power System**

### Article 12

- (1) The transmission or distribution operator is obliged to ensure the wind power plant connection to the transmission or distribution network, provided that the wind power plant fulfills requirements prescribed by the Network Code and other regulations, namely, that all requirements for the connection to or use of the network have been fulfilled.
- (2) Costs for the necessary improvement of the electric power system for the purpose of connecting the wind power plant to the transmission or distribution network shall be born by the investor.

- (3) Connection of the wind power plant to the transmission or distribution system shall be implemented in accordance with the regulations that define connection to the transmission or distribution system.

### **Takeover and Purchase of the Electric Power from the Wind Power Plant**

#### Article 13

- (1) Public electric power supplier is obliged to purchase all electric power from the wind power plant that has been supplied to the electric power grid.
- (2) Methodology for defining purchase price for the electric power from the wind power plant shall be determined by the Ministry.
- (3) Electric power purchase price referred to in the paragraph 1 of this article shall be calculated, namely defined, by the Agency on the basis of the methodology for defining purchase price for the electric power from the wind power plant.

### **Transitional Provisions**

#### Article 14

- (1) Legal entity or individual that has obtained approval for measuring and researching the wind potential before this decree comes into effect, is obliged to deliver the conceptual design with the measurement results to the Ministry not later than two years from the date of the decree coming into effect.
- (2) Selection of the investor for the wind power plant construction and lease of the state-owned land on the basis of the approval from the paragraph 1 of this article shall be conducted on the basis of the public announcement in accordance with this decree.
- (3) Public announcement referred to in the paragraph 2 of this article shall particularly define:
- subject to the public bidding,
  - list of documents that are to be submitted with the bid,
  - criteria for selection of the most favorable bid,
  - starting price for the lease on the state-owned land,
  - period of the lease on the land,
  - obligation to compensate the real costs of the measurements and research to the person that has performed measurements and research of the wind potential and performed the conceptual design if the agreement had not been concluded with him,
  - instructions to bidders,
  - name of the person responsible for providing information regarding the implementation of the public announcement procedure,
  - time and place for obtaining the documentation for preparation of the bid, as well as the price thereof,
  - address and date for the bid submission,
  - time and place for the opening of bids,
  - amount and type of the guarantee submitted with the offer.

## **Final Provision**

### Article 15

This decree shall come into effect on the eight day upon its publishing in the "Official Gazette of Montenegro".

Number: 01-586/14  
Podgorica, September 25, 2009

Government of Montenegro

Prime Minister,  
Milo Djukanovic

## Explanation

Legal grounds for enacting the Decree on the Wind Power Plants is contained in the article 3 paragraph 1 item 4 of the Energy Law ("Official Gazette of Republic of Montenegro", number 39/03) and article 40 paragraph 3 of the Law on State Property ("Official Gazette of Montenegro", number 21/09), which provide that the Government of Montenegro shall define within the energy sector the policy and strategy for the construction of new or reconstruction of the existing capacities and in that respect shall adopt required procedures, as well as that the methodology, procedure, agreement conclusion, sale conditions and lease on the state-owned property shall be prescribed by the Government of Montenegro.

According to the Energy Development Strategy of Montenegro until 2025 and the five-year Action Plan for implementation of the strategy until 2012, the construction of the wind power plant in the area of Montenegro is envisaged with the installed power of 60 MW. The proposed decree establishes legal grounds for the procedure of research and measuring of the wind potential and construction of the wind power plants, which at the same time represents the first step in implementation of the Program for Development of the Renewable Sources of Energy for Use of the Wind Power. By implementing this Program, Montenegro shall promote generation of the electric power from the renewable sources, which is in accordance with the defined energy policy of the European Union.

The decree shall define procedure for measuring and research of the wind potential, method and procedure for land lease on the measuring site, namely the wind power plant location, procedure for construction of wind power plant and its connection to the electric power system, as well as purchase of the electric power.

Wind power plants may be constructed on state-owned and private land in accordance with the Law on State Property, by leasing the state-owned land for the wind power plant construction on the basis of the defined starting lease price that is to be defined by the decision of the competent authority.

Regarding the land for measuring and research of wind potential that is in private ownership, the property-legal relations between the investor and the land owner shall be defined through a direct agreement or in accordance with the Law on Expropriation.

Procedure for the selection of the investor for measuring and research of the wind potential and use of land shall be conducted by the public bidding procedure that is to be initiated with the public announcement.

Investor obtaining the right for measuring and research of the wind potential, construction of the wind power plant and lease on the state-owned land shall sign the agreement with the ministry responsible for the energy sector.

Investor is obliged to prepare the conceptual design for the wind power plant construction upon previously obtained opinions from the following authorized bodies: ministry competent for the spatial development and environment protection regarding to its compliance with the concept of the spatial development, and opinion of the transmission or distribution system operator regarding the possibility and conditions for connection of the wind power plant to the electric power system.

Investor is furthermore obliged, before obtaining the construction permit for the wind power plant construction, to obtain authorization for the construction of new production capacities from the Energy Regulatory Agency.

Upon obtaining the construction permit, the construction of the wind power plant shall be conducted in accordance with the technical regulations and in accordance with the law.

Regarding the connection of the wind power plant to the electric power system, the transmission operator or the distribution operator is obliged to ensure connection of the wind power plant to the transmission or distribution network, whereas the costs of the



required improvements of the electric power system for the purpose of ensuring the wind power plant connection to the transmission or distribution network shall be born by the investor.

Takeover and purchase of the electric power from the wind power plant shall be undertaken by the Public supplier on the basis of the methodology for defining the purchase price for the electric power produced from the wind power plant.

The subjects encompassed by this decree are regulated by the EU regulations, namely by application of the Directive 2001/77EC which encompasses the issue of renewable energy sources.

It will not be necessary to allocate additional funds in the budget for implementation of this decree as compared to the funds planned by the existing budget.