

DECREE-LAW No. 33/2016

of 17 August 2016

ELECTRICITY LICENSING AND TARIFF REGULATION

The organizational framework of the national electricity system approved by Decree-Law no 13/2003 of 24 September, established the coexistence of a public service electricity system and an independent electricity system organized according to the logic of the market. However, the main strategic objectives of the Government focused on the development of the infrastructures necessary to develop the National Electricity Network as a priority and fundamental condition for the supply of electricity to the entire population. For this reason, neither the electricity company nor the respective regulatory authority for the electricity sector provided for in the aforementioned Decree-Law no. 13/2003 of 24 September were created.

In this sense, since UNTAET Directive 2002/07 of 10 May, the legislation of the electricity sector has been centralized in the electricity tariff regime, lacking its integration in a duly systematized and coherent legislative framework.

The present decree-law, implementing the regulatory plan of the Ministry of Public Works, Transport and Communications, establishes the general rules for the functioning of the electricity distribution and supply system, which are scattered over various pieces of legislation, although a coherent and articulated legislative framework for the national electricity sector is still in progress.

In this context, the present law integrates the rules of an administrative nature that define the conditions of electric energy supply, the criteria and methods for the formulation and setting of tariffs for electric energy and prices for connection to the public electric grid, including the category of customers to differentiate prices according to the type of domestic consumption, commercial, non-governmental organizations and the Government, also establishing its control and supervision as well as the regime of sanctions for those who clandestinely establish connections to the electric grid in violation of the present regime.

Thus,

The Government decrees, under the provisions of Article 115(1)(e) of the Constitution of the Republic, and of Article 30(2) of Decree-Law no. 13/2003 of 24 September 2003, to have the following effect as law:

CHAPTER I
GENERAL PROVISIONS

Article 1
Subject

This Decree-Law establishes the tariff and price regime for electricity, as well as the conditions for access to the public electricity distribution and supply network, including control and monitoring rules.

Article 2
Scope

The regime provided for in this Decree-Law applies to all electricity consumers in the national public distribution network.

CHAPTER II LICENSING OF ELECTRICAL INSTALLATIONS

Article 3 Electricity supply equipment

1. The equipment for the supply of electricity and other materials for connection to the public electricity distribution network are the property of the Directorate-General for Electricity of the Ministry of Public Works, Transport and Communications and certified exclusively by this entity to be used for the supply of electricity in accordance with this Decree-Law and the existing technical rules of service.
2. The technical equipment that makes up the energy supply system is the following:
 - a) Transmission line and its components;
 - b) Medium voltage distribution line (20 KV) and its components;
 - c) Low voltage line (220 V/380 V) and its components;
 - d) Transformer stations and their components;
 - e) Low-voltage distribution line (20 KV) and components;
 - f) Protection and load control circuit breakers (Ampere);
 - g) Meters and components thereof.
3. The basic equipment or materials that form part of the downlink used to connect the electricity distribution line to consumers are the following:
 - a) Three-phase or single-phase twisted cable;
 - b) Connector;
 - c) Mooring clamp;
 - d) Electric meter certified with inviolability seal by the Directorate-General of Electricity.
4. With the exception of the meters and respective components referred to in paragraph g) of the previous paragraph, the equipment or materials described in the previous paragraphs may only be certified or licensed by the Directorate-General of Electricity, which shall be responsible for connecting and disconnecting an electrical power connection to the public electricity distribution network.

Article 4 Connection to the public electricity grid

1. Consumers wishing to join the public electricity grid shall register with the Customer Service Centre of the Directorate-General for Electricity in accordance with the following procedure:
 - a) Filling in the form provided by the Customer Service Centre;
 - b) Presentation of the identification document, namely the voter's card or passport;
 - c) If one wants an installation with a power of more than 4500 VA, there must be submission of an application for this purpose, against payment of the respective tariff, accompanied by the technical drawing of the desired installation and the map of the installed power;
 - d) Commercial consumers must also submit the commercial register issued by the Directorate General of Trade;
 - e) Payment of the respective fees in accordance with the law.

2. The connection of consumers' installations to the public electricity grid is only completed after technical verification and respective approval by the technicians of the Consumer Support Service of the Directorate-General for Electricity.
3. The Directorate-General of Electricity is the competent entity to supervise the technical design of the installation requested by the consumer, as well as to determine the tariff applicable under the law.

Article 5 **Cost of material**

1. The cost of the equipment shall be established by the Directorate-General for Electricity taking into account the market price or the price charged by the supplier of electrical equipment.
2. The Directorate-General for Electricity may change the material cost whenever there are price fluctuations in the market.
3. The cost of equipment shall be periodically updated by ministerial decree of the Minister for Public Works, Transport and Communications.

Article 6 **Categories of consumers**

1. According to the energy consumption the following categories of consumers are created:
 - a) Domestic;
 - b) Social, including International and National Non-Governmental Organisations
 - c) Commercial;
 - d) Government and other public entities;
 - e) Industrialists.
2. For the purposes of the preceding paragraph, the following shall be considered:
 - a) Domestic consumers shall mean domestic or foreign consumers whose premises are intended exclusively for residential purposes;
 - b) Social consumers and NGOs, facilities that are intended exclusively for humanitarian, religious or any other non-profit institutions;
 - c) Commercial consumers shall mean businesses or commercial establishments;
 - d) Government and public entities, all public entities and services of the State and diplomatic representations, with the exception of public companies;
 - e) Industrial consumers means national or foreign consumers whose facilities are intended exclusively for industrial production purposes,
3. The value of electricity tariffs for each category of consumer shall be approved by Government Decree.

Article 7 **Connection fee**

1. The connection fee shall consist of the cost of the equipment and the administrative charge applicable to consumers at the time of registration until the connection is brought down to the consumer's premises.
2. The tariff for the participation of consumers is due for situations where a special and direct connection is made to the public medium-voltage electricity network including maintenance support services.

3. The tariffs referred to in the preceding paragraphs shall be approved by a ministerial decree of the Minister of Public Works, Transport and Communications.

Article 8

Power of electric energy connection

1. The installation power is the maximum amount of energy that a consumer requests at the time of registration with the Customer Service Centre of the Directorate-General for Electricity.
2. The power referred to in the previous paragraph shall be limited by a protective circuit breaker (Ampère) whose purpose is to control the consumer's consumption according to the contracted power.
3. Consumers who wish to increase the power of the energy connection should apply for a change in the application by re-registering with the Customer Service Centre.
4. The Directorate-General for Electricity may immediately disconnect consumers who, without prior authorization, increase the power initially contracted, without prejudice to other penalties applicable under the law.

Article 9

Power measurement of electrical energy

1. The power measurement of electrical energy that a consumer uses is composed of normal power, active power and reactive power
2. The active electrical power is the use of normal mediated electrical energy according to the formula $P=V.I$. in which:

$$P = \text{Power (Watt)} \quad V = \text{Voltage (Volt)} \quad I = \text{Current (Ampere)}$$

3. The reactive energy corresponds to the electrical energy stored with the magnetic flux in coils, transformers, motors and ampoules and is measured in Kilo Volt Reactive Ampere Hour (KVARH) units.
4. The value of the electrical energy that a consumer must pay is calculated according to the following formula:

$$\text{Value to pay} = (\text{KVAH} + \text{KVARH} \times \text{tariff})$$

Article 10

Temporary connection

1. The temporary power connection is made in special situations, namely the construction of shipyards or projects, holding exhibitions, parties or celebrating national events.
2. The temporary power connection is made through an agreement with the Directorate-General for Electricity and for a maximum period of one year.
3. The cost of electricity and temporary connection is calculated according to the following formula:

$$\text{Value to Pay} = \text{Total Consumption} \times \text{Tariff} + \text{Material Cost}$$

Article 11

Interruption of electrical power supply

1. The Directorate General for Electricity may disconnect the lowering of the electrical power and cut off the electricity supply to the consumer whenever any of the following events of non-compliance occur:

- a) Late payment of the electricity bill for more than 90 days;
 - b) Non-compliance with any instalment payment agreement entered into with the Directorate-General for Electricity;
 - c) Existence of an illegal direct connection to the public electricity grid without the use of the electricity meter;
 - d) Illegal connection to the public electricity grid through the intervention of an electrician not authorized by the Directorate General for Electricity;
 - e) Damage to the equipment, electric meters and other materials of the Directorate-General for Electricity;
 - f) Exchange or replacement of electrical equipment and materials without the knowledge and authorization of the Directorate General for Electricity;
 - g) Obstacles by the consumer preventing duly identified officials of the Directorate General for Electricity from reading meters or carrying out any inspection activities at the place of electricity supply in accordance with the law.
2. After the electric power has been disconnected under the terms of the previous paragraph, the Directorate-General for Electricity may also remove the meter, cables and other equipment and materials from the electric facility of which it is the owner.
 3. Should the consumer proceed to pay the amounts missing and to comply with the sanctioning measures applied to him/her under the terms of this Decree-Law, the electricity downtime may be switched on and the electricity supply re-established.

CHAPTER III SANCTIONS

Article 12 Infringements

1. The offences provided for in this statute shall be of an administrative nature, without prejudice to other offences of a criminal or civil nature provided for in general law.
2. Failure to comply with the provisions of this statute and complementary legislation shall constitute a serious offence punishable under the terms of the following articles.
3. Negligence and attempts shall always be punishable.
4. Fines shall be set at between a maximum and a minimum and their application shall be graduated according to the seriousness of the offence, the danger to the security of the public electricity network, the resulting damage to the State or to third parties, the degree of fault of the offender and the existence of a repeat offence.
5. There shall be deemed to be a repeat offence where, within three months of the date on which a penalty is imposed, the offender commits an offence of the same type.

Article 13 Administrative classification and fines

The following administrative fines shall be punishable by these offences:

- a) The existence of an illegal direct connection to the public electricity grid without use of the electric meter in violation of the provisions of paragraph 1(c) of Article 11, constitutes an offence punishable by an administrative fine of USD \$100.00 (one hundred American dollars) to USD

\$2,000.00 (two thousand American dollars) for domestic and social consumers and of USD \$2,000.00 (two thousand American dollars) to USD \$15,000.00 (fifteen thousand American dollars) for the remaining categories of consumers;

- b) Illegal connection to the public electricity grid through the intervention of an electrician not authorized by the Directorate General for Electricity in violation of the provisions of Article 11(1)(d) constitutes an offence punishable by an administrative fine of USD \$500.00 (five hundred USD) to USD \$2,000.00 (two thousand USD);
- c) The damage to equipment, electric meters and other materials of the Directorate General for Electricity, as well as the exchange or replacement of electric equipment and materials without the knowledge and authorization of the Directorate General of Electricity in violation of the provisions of paragraphs e) and f) of paragraph 1 of Article 11, constitutes an infraction punishable by an administrative fine of USD 100.00 (one hundred American dollars) to USD \$2,000.00 (two thousand American dollars) for domestic and social consumers and from USD \$2,000.00 (two thousand American dollars) to USD \$15,000.00 (fifteen thousand American dollars) for the remaining categories;
- d) Any changes to the execution of the distribution line not in conformity with the respective project previously approved or with the conditions established in the contract previously signed with the Directorate-General for Electricity in violation of the provisions of Article 18, shall constitute an infringement punishable by an administrative fine of USD \$2,000.00 (two thousand American dollars) to USD \$15,000.00 (fifteen thousand American dollars).

Article 14

Responsibility of Public Administration employees and agents

Officials and agents of the Directorate-General for Electricity of the Ministry of Public Works, Transport and Communications who, in the exercise of their licensing and supervisory duties, fail to report infringements or provide false or erroneous information in violation of this Decree-Law shall be liable to disciplinary action under the terms of the Civil Service Regulations.

CHAPTER IV

JURISDICTION AND PROCEDURE FOR IMPOSING PENALTIES

Article 15

Competence

The services of the Directorate-General for Electricity of the Ministry of Public Works, Transport and Communications shall be responsible for initiating the administrative procedure for the application of penalties for breaches of the provisions laid down in this Decree-Law, as well as the application of administrative fines.

Article 16

Procedure

1. For each infraction detected, a record shall be drawn up which shall be authentic to the facts witnessed and described until proven otherwise, and which shall serve as the basis for the procedure.
2. The offender shall be notified of the infringement and the notification shall contain the following information:
 - a) the facts constituting the infringement and the legislation infringed;
 - b) the penalties applicable;

- c) the place and time limit for submitting the defense;
 - d) the possibility of voluntary payment of the administrative fine for the minimum amount and the consequences of non-payment.
3. The offender may, within 15 days, submit his or her defense in writing or make voluntary payment.
 4. The final decision may be appealed to the hierarchical superior of the author of the decision, in accordance with the Administrative Procedure in force.

Article 17

Destination of fines

The proceeds of the fines revert to the General State Budget.

CHAPTER V

FINAL AND TRANSITIONAL PROVISIONS

Article 18

Execution of electricity distribution lines

1. The electrical power distribution lines are composed of medium voltage (6 KV to 30 KV) and low voltage (220 V to 380 V) power lines.
2. The Directorate-General for Electricity is the competent authority to award accreditation to companies and to certify their specialized technicians for the purpose of running electricity distribution lines, as well as to supervise them.
3. An accredited company which has concluded a contract with the Directorate-General for Electricity for the execution of electricity distribution lines shall be responsible for submitting progress and proper execution reports in accordance with the signed contract.
4. The accredited company responsible for the execution of the distribution line is obliged to register the installed power in accordance with the consumer's form for the purpose of paying the connection fee.
5. Technicians of the Directorate-General for Electricity regularly monitor and verify the project for the execution of the distribution line until it is completed and the decision to connect the electricity is taken.

Article 19

Complementary legislation

The other technical and regulatory standards in the electricity sector developed by the Directorate-General for Electricity are approved by ministerial decree of the Minister for Public Works, Transport and Communications.

Article 20

Repeal rule

The following acts are hereby repealed:

- a) Decree-Law No 22/2006 of 27 December 2006;
- b) Government Resolution no. 33/2010, of 28 June;
- c) UNTAET Directive 7/2002, of May 10.

Article 21
Entry into force

This law shall enter into force on the day following its publication.

Approved by the Council of Ministers on 22 March 2016.

The Prime Minister,

Dr. Rui Maria de Araújo

The Minister of Public Works, Transport and Communications,

Gastão Francisco de Sousa

Enacted on 22 - 6 - 2016

Be it published.

The President of the Republic

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