

Pursuant to Articles 4.2 and 4.7 of the Law on Transmission of Electric Power, Regulator and System Operator of Bosnia and Herzegovina (Official Gazette of BiH, 7/02, 13/03, 76/09 and 1/11), Article 33 of the Rule of Practice and Procedure of SERC (Official Gazette of BiH, 2/05) and Article 51, paragraph 7 of the Licensing Rule – Consolidated Version (Official Gazette of BiH, 63/16), at its session held on 11 March 2020 the State Electricity Regulatory Commission, adopted a

## **DECISION**

### **EXTENDING SUSPENSION OF TEMPORARY LICENCE**

1. The suspension of the temporary licence for performance of the international electricity trading activity issued to the Limited Liability Company "ALUMINIJ Trade", registry number 05-28-12-131-18/18, shall be extended until the expiry of the licence, i.e., until 31 May 2020.
2. This Decision shall come into force on the day of adoption. The operative part of the Decision shall be published in the Official Gazette of BiH and official gazettes of the Entities.

### ***Statement of Rationale***

Pursuant to the Decision of the State Electricity Regulatory Decision (SERC) under reference number: 05-28-12-131-18/18 of 23 May 2018, the Company "Aluminij Trade" d.o.o. Mostar with the seat in Mostar, at Bačevci bb, was granted a temporary license for performance of the international electricity trading activity with the term from 1 June 2018 to 31 May 2020.

In the request of 13 March 2019, registered under reference number 05-28-12-137-1/19, the licensee asked for the suspension of the temporary licence as of 1 April 2019.

Acting upon the submitted request and taking into consideration the provisions of Article 51 paragraph 9 of the Licensing Rule – Consolidated Version which limit the term of licence suspension at the licensee's request up to one year maximum, by the SERC Decision number 05-28-12-137-7/19 of 27 March 2019, the given licence was suspended starting on 1 April 2019 up to 31 March 2020 at latest.

During the requested suspension the licensee did not show any interest in renewing performance of the international electricity trading activity, i.e., the licensee did not submit a request for the cessation of the suspension.

Taking into account that SERC received the Decision of the Regulatory Commission for Energy in the Federation of Bosnia and Herzegovina (FERK) number 06-03-139-04/3/19 of 27 February 2019 according to which a II tier supply licence was withdrawn from the "Aluminij Trade" Company, and starting from the fact that the requested suspension would expire on 31 March 2020 conclusive, by its act number 05-28-12-56-1/20 SERC asked this Company to submit evidence that the preconditions for re-issuance of the relevant licence by FERK had been fulfilled.

Although the given act of SERC was delivered to the holder of the temporary licence on 7 February 2020, neither there was confirmation that the requirements for issuance of the relevant FERK licence had been met either within the specified deadline or later, nor did the licensee announce that it did not intend to continue performing the international electricity trading activity any longer.

Pursuant to point 2.1 of the Standard licence conditions for performance of the international electricity trading activity (hereinafter: Standard Conditions), the licensee is obligated to permanently meet the general and specific criteria defined by the Licensing Rule. One of the specific criteria for the issuance of a licence for performance of the international electricity trading activity specified in Article 30 paragraph 1 point e) of the Licensing Rule – Consolidated Version is that the preconditions for issuance of the relevant licence by the Entity Regulators have been fulfilled prior to the commencement of the activity of the international trading in accordance with the SERC licence. Therefore, in addition to having to provide evidence that the preconditions for issuance of the relevant licence by the Entity Regulators have been fulfilled, the licensee has to fulfil this criteria permanently during the term of the SERC licence, i.e., has to be in possession of a licence issued by the Entity Regulator or, as a minimum, prove that the preconditions for the issuance thereof have been met.

The "Aluminij Trade" Company" neither has a FERK licence Društvo "Aluminij Trade" nor did it prove within the specified or a reasonable deadline that the preconditions for issuance of the relevant licence by the Entity Regulator had been fulfilled which presents the violation of provision 2.1 of the Standard Conditions.

Furthermore, by its act number 05-28-12-56-1/20 of 4 February 2020, SERC presented to the licensed entity the activities it should undertake both in case of the intention to continue or cease performing the licensed activity. Having regard to the right of the licensed entities to cease performing the licensed activity permanently, in the same act SERC pointed out to the "Aluminij Trade" Company how to make this intention concrete if such an intention exists. However, after the SERC request there was no reaction or announcement by the licensee.

The demonstrated passivity and complete lack of interest on part of the temporary licence holder to express its intentions regarding the performance of the licensed activity or contest further action by SERC which was announced in case the licensee fails to express its intentions are the facts which imply that it is impossible to have any communication and cooperation between the licensed entity and the competent regulator.

In addition to lack of evidence that the preconditions for issuance of the relevant licence by the Entity Regulator have been fulfilled, which represents the violation of point 2.1 of the Standard Conditions by itself, all the mentioned facts as a whole provide the sufficient basis for the position that this is a higher degree of violation, that is, the specific violation of the provisions of the licence conditions, therefore, pursuant to Article 51 paragraph (7) in relation to paragraph (8) of the Licensing Rule – Consolidated Version it was decided as provided in the operative part of the Decision.

Pursuant to Article 9.2 of the Law on Transmission of Electric Power, Regulator and System Operator of Bosnia and Herzegovina, proceedings may be initiated before the Court of Bosnia and Herzegovina against this Decision by filing a lawsuit within sixty (60) days of receipt thereof.

Number: 05-28-12-56-2/20

11 March 2020

Tuzla

Chairman of the Commission

Suad Zeljković