

Pursuant to Article 74 of the Energy Law (“Official Gazette of RS”, no. 145/14) and Article 42, paragraph 1 of the Law on Government (“Official Gazette of RS”, no. 55/05, 71/05 – corrigendum, 101/07, 65/08, 16/11, 68/12 – Constitutional Court, 72/12, 7/14 – Constitutional Court and 44/14),

the Government is hereby adopting the following

REGULATION
ON THE REQUIREMENTS AND PROCEDURE OF ACQUIRING THE STATUS OF A
PRIVILEGED PRODUCER, PRELIMINARY PRIVILEGED PRODUCER AND PRODUCER
FROM RENEWABLE ENERGY SOURCES

I. INTRODUCTORY PROVISIONS

Article 1

The Regulation hereof prescribes in more detail the requirements and the procedure for the acquisition, duration and termination of the status of a privileged producer, preliminary privileged producer and a producer from renewable energy sources, the contents of the application and proof of eligibility for acquiring the status of a privileged producer, payment security instruments, the minimum level of utilization of primary energy in power plants for high-efficiency electricity and thermal energy cogeneration depending on the type of primary fuel and installed power, the maximum aggregate installed capacities of all wind power plants and solar power plants that may acquire the status of a privileged producer, and/or preliminary privileged producer, the contents and the method of keeping the registry referred to in Article 75 of the Energy Law and other issues in accordance with the law.

Article 2

Certain terms, when used herein, shall have the following meanings:

- 1) A geothermal power plant is a power plant using groundwater and heat of rock masses;
- 2) The date of application is the date when the application for acquiring the status of a privileged producer, and/or preliminary privileged producer has been registered at the registry office of the Administration for Joint Services of the Republic Bodies;
- 3) A part of the power plant is an independently built part of the power plant facility, for which the preliminary privileged producer status has been acquired, with a separate use permit and which, after the construction, has a separate measuring device for reading the electrical power produced;
- 4) A power plant is a facility for the production of electrical power and has at least one transfer point for electrical power delivered into the system;
- 5) A biomass power plant is a power plant that uses biodegradable material, including:
 - (1) Plants, parts of plants and plant residues generated in agriculture (straw, corn stalks, branches, fruit stones, shells), manure from farms, etc.
 - (2) Plants, parts of plants and plant residues in forestry, residue resulting from forest logging, etc.
 - (3) Plants, parts of plants and plant residues from fast-growing energy plantations;
 - (4) Material from fishing and aquaculture;
 - (5) Biodegradable residues in food, wood and related industries;

- (6) Separated biodegradable fraction of municipal waste;
- (7) By-products of animal origin used in accordance with legislation regulating the field of veterinary medicine;
- (8) An energy source produced through a technological procedure from materials listed under this item.

6) A biogas power plant is a power plant with one or more generating units using gas generated in its own facilities (digesters), by means of anaerobic processes from biomass and waste products of animal origin used in accordance with legislation regulating the field of veterinary medicine;

7) A wind power plant is a power plant using the energy of wind;

8) A landfill gas power plant is a power plant that uses gas originating from municipal landfills;

9) A power plant running on gas from municipal wastewater treatment facilities is a power plant that uses gas originating from anaerobic processes in such facilities;

10) A solar power plant is a power plant that uses solar radiation energy;

11) A solar power plant on the facility is a power plant that uses solar radiation, installed on the facility constituting a physically distinct unit and clearly separated from other facilities, provided that only a single solar power plant may be installed on a single facility;

12) A solar power plant outside of the facility is a power plant that uses solar radiation, installed on land;

13) A waste power plant is a power plant that uses waste in accordance with legislation regulating waste management and use of waste for energy production;

14) A power plant with highly efficient electrical and thermal power cogeneration is a power plant simultaneously producing electrical and thermal power in the process of production with a high degree of efficiency using natural gas as the primary fuel;

15) The energy value of the consumed fuel is the sum of the products of consumed quantities of basic and supplementary fuels and their average lower calorific values;

16) The engaged capacity is the sum of installed capacities of power plants calculated separately for wind power plants, and separately for categories of solar power plants for which:

(1) The status of a privileged producer is valid;

(2) The status of a preliminary privileged producer is valid;

(3) The previous status of privileged producer or the status of preliminary privileged producer is not valid, and which meet the conditions to be calculated in the disengaged capacity until the date of assigning the disengaged capacity in accordance with the Regulation hereof;

17) The maximum capacity is the sum of installed capacities of power plants, separately established for wind power plants, and separately for categories of solar power plants, up to which the status of a privileged producer or the status of a preliminary privileged producer may be acquired;

18) A newly-built facility is a power plant or a part of the power plant that was commissioned after 1 January 2010;

19) Equipment is a set of basic components of the power plant, or a part of the power plant for the production of electrical power: a power generating set (turbine, generator), photovoltaic panels, inverter, boiler facility, etc.

20) Disengaged capacity is the sum of installed capacities of power plants from the engaged capacity, for which:

- 1) The status of a privileged producer is terminated;
- 2) The status of a preliminary privileged producer is terminated unless the preliminary producer has acquired the status of a privileged producer within the time limit prescribed by the law.
- 21) Available capacity is the difference between maximum capacity and engaged capacity;
- 22) Primary fuels are the basic and supplementary fuels consumed for the production of electrical power or for high efficiency electricity and thermal energy cogeneration;
- 23) A generating unit is a generator, photovoltaic panel or other device in the power plant or a part of the power plant, converting other forms of energy into electricity;
- 24) The electricity produced at the power plant or a part of the power plant is the total electricity delivered to the transmission or distribution system at the place of delivery of electric power for a particular accounting period, expressed in kWh;
- 25) A reconstructed facility is a power plant built before 1 January 2010 where the reconstruction, in terms of the law governing planning and construction, served to replace the equipment, provided that the reconstruction has been completed after 1 January 2010;
- 26) A hydro power plant is a power plant that converts the power of natural watercourses into electricity;
- 27) A hydro power plant on the existing infrastructure is a hydro power plant that uses an existing dam, or a hydro power plant built on the pipelines in water-treatment plants under the natural pressure of falling water.

Other terms not used in paragraph 1 of the Article hereof shall have the meaning set forth under the Energy Law.

II. REQUIREMENTS FOR ACQUIRING THE STATUS OF A PRIVILEGED PRODUCER, PRELIMINARY PRIVILEGED PRODUCER AND PRODUCER FROM RENEWABLE ENERGY SOURCES

1. Requirements for acquiring the status of a privileged producer for the power plant, and/or part of the power plant

Article 3

An energy entity and a natural person may acquire the status of a privileged producer (hereinafter: privileged producer) for a power plant, and/or part of a power plant that:

- 1) Uses renewable energy sources in the process of generating electrical power and meets the requirements in terms of installed capacity, namely in the following:
 - (1) Hydroelectric power plants with installed capacity of up to 30 MW;
 - (2) Hydroelectric power plants on existing infrastructure of installed capacity up to 30 MW;
 - (3) Biomass power plants;
 - (4) Biogas power plants;
 - (5) Power plants using landfill gas and gas from communal waste water treatment facilities;
 - (6) Wind power plants if, in accordance with the provisions of the Regulation hereof, they are established to have an installed capacity lower than or equal to the available capacity;

(7) Solar power plants if, in accordance with the provisions of the Regulation hereof, they are established to have an installed capacity lower than or equal to the available capacity;

(8) Geothermal power plants;

(9) Waste-to-energy plants;

2) Is built and suitable for use according to the law regulating construction of buildings;

3) Provides separate measurement of electricity generated and/or separate measurements of thermal energy delivered and received, separate from measurements in other technological processes, with clearly labelled measuring devices in accordance with the Energy Law and the rules on the operation of the distribution, and/or transmission system;

4) Generates electrical power in newly-built or reconstructed facilities where new equipment has been installed;

5) Have a license to perform the activity of generating electrical power, issued in accordance with the Energy Law;

6) Connected to the distribution system, and/or transmission system in accordance with the Energy Law and the regulations adopted thereunder;

7) If the applicant is a natural person, that the installed power plant capacity is no higher than 30 kW and they do not have the status of a privileged producer for another power plant;

8) If the status has not been revoked for the energy entity, and/or natural person, or if the procedure for revoking the status of privileged producer has not been initiated for reasons prescribed under Article 73, paragraph 1, items 1) through 3) of the Energy Law or the status of the preliminary privileged producer for reasons prescribed in Article 73, paragraph 3 items 1), 2) and 4) of the Energy Law;

9) If there is no valid status of a producer from renewable energy sources for the power plant for which the status of privileged producer is requested;

10) If the status of privileged producer has not previously existed for the power plant the status of a privileged producer is requested for, unless it is the power plant referred to in the case under Article 19, paragraph 3 of the Regulation hereof.

11) In the case under Article 19, paragraph 4 of the Regulation hereof, if they were appointed by the Lender or the Lender's Agent.

The status of a privileged producer is granted for the installed capacity of the power plant or part of the power plant equivalent to the total capacity approved by the system operator for connection to the electricity system of the power plant, and/or part of the power plant.

2. Requirements for acquiring the status of a privileged producer for a power plant, and/or part of a power plant from high-efficiency electrical and thermal power cogeneration

Article 4

An energy entity and a natural person may also acquire the status of a privileged producer for a power plant, and/or part of a power plant for high-efficiency electricity and thermal energy cogeneration with an installed electrical capacity of up to 10 MW, if, in addition to compliance with the requirements referred to in Article 3, paragraph 1, items 2) through 10) of the Regulation hereof, they have:

1) Built-in equipment enabling highly efficient electricity and thermal energy cogeneration, with a minimum total annual efficiency level of 75%, whereby the total annual efficiency level of the power plant for cogeneration (¹⁾) is the ratio between the

total net energy produced (electricity and thermal energy) and energy values of consumed primary fuels, calculated according to the formula:

$$\eta = \frac{E + Q}{E_{pg}}$$

where:

E - the total annual production of electrical power in combined production;

Q - the total annual useful production of thermal energy from cogeneration encompassing the thermal energy spent for own needs and the thermal energy sold;

E_{pg} - the energy value of the fuel consumed during the year for electricity and thermal energy cogeneration

- 2) Built-in measuring devices and designated measuring points measuring the total energy produced and delivered, and the consumed fuel;
 - 3) Concluded contract for the sale of thermal energy or proof of using the produced thermal energy for their own needs, including heating of facilities or consumption of thermal energy for production purposes.
3. Supplementary fuel for power plants that use renewable energy sources and power plants for high-efficiency electricity and thermal energy cogeneration.

Article 5

Fossil fuels, technological waste gases with organic fractions, waste sludge from waste water treatment facilities or other renewable energy sources may be used as supplementary fuels in the power plants referred to in Article 3, paragraph 1, item 1) sub-items (3), (4), (5), (8) and (9) of the Regulation hereof and in Article 4 of the Regulation hereof.

4. Requirements for acquiring the status of a preliminary privileged producer

Article 6

An energy entity and a natural person may acquire the status of a preliminary privileged producer (preliminary privileged) for a power plant if:

1) They can commence the construction of a power plant referred to in Article 70, paragraphs 1 and 2 of the Energy Law, in accordance with the law regulating construction of buildings;

2) They have acquired the financial security instruments in case they fail to acquire the status of a privileged producer in accordance with Article 71, paragraph 3 of the Energy Law, for a power plant with an installed capacity greater than 100 kW;

3) Based on the technical documentation, as well as the provisions of the Energy Law and regulations adopted thereunder, they may acquire the status of a privileged producer for the planned power plant, specifically:

(1) If the applicant is a natural person, the installed capacity of the planned power plant shall not exceed the maximum installed capacity for which the natural person may acquire the status of a privileged producer under the Energy Law,

(2) That the technical documents for the planned power plant envisage the use of renewable energy sources in the electricity generation process, and/or that the use of equipment suitable for the realization of high efficiency cogeneration of electricity and thermal energy is envisaged in accordance with the provisions of the Regulation hereof;

(3) That the technical documentation and conditions for connection for the planned power plant provide for separate measurements of the received and delivered electricity and thermal energy into the system in accordance with the provisions of the Regulation hereof;

(4) That the installed capacity for the planned wind power plant or solar power plant is lower than or equal to the available capacity;

(5) If the status has not been revoked for the energy entity, and/or natural person, or if the procedure for revoking the status of privileged producer has not been initiated for reasons prescribed under Article 73, paragraph 1 items 1) through 3) of the Energy Law, and/or the status of a preliminary privileged producer for reasons referred to in Article 73, paragraph 3, items 1), 2) and 4) of the Energy Law;

(6) If the status of privileged producer or the status of the preliminary privileged producer has not previously existed for the power plant the status of preliminary privileged producer is requested for, unless it is the power plant referred to in the case under Article 19, paragraph 3 of the Regulation hereof;

(7) In the case under Article 19, paragraph 4 of the Regulation hereof, if they were appointed by the Lender or the Lender's Agent.

5. Financial security instrument for acquiring the status of a preliminary privileged producer

Article 7

The financial security instrument referred to in Article 6, paragraph 1, item 2) of the Regulation hereof shall be set to the amount of EUR 60.00 per installed kW at the power plant, provided as:

1) A cash deposit to be paid in RSD counter-value as per the mean exchange rate of the National Bank of Serbia on the date of payment, to the dedicated sub-account of the budget of the Republic of Serbia in accordance with legislation regulating the budget system, or

2) An "on demand" bank guarantee.

The bank guarantee referred to in paragraph 1, item 2) hereof shall include:

1) The fact that the Ministry is the beneficiary of the guarantee;

2) The fact that the issuing bank is registered in the Republic of Serbia;

3) The fact that the principal is the applicant or another person, whereby another person may only be the principal provided that the issuing bank guarantees for the obligations of the applicant;

4) The fact that the guaranteed amount is to be paid in RSD as per the mean exchange rate of the National Bank of Serbia, applicable on the date of the collection of the bank guarantee;

5) A statement of the issuing bank whereby the issuing bank undertakes, if the applicant acquires the status of a preliminary privileged producer and in case of default by the preliminary privileged producer, to irrevocably, unconditionally and without the right to objection pay any

amount in proportion to the default obligation, at most up to the guaranteed amount, on first written demand of the guarantee beneficiary stating that the preliminary privileged producer has not, either fully or partially, acquired the status of a privileged producer in terms of the Energy Law;

6) The obligation of the guaranteeing bank to make the payment within seven working days upon receipt of the request for payment under the guarantee;

7) A clause whereby the bank guarantee shall be null and void and terminated in case the applicant does not acquire preliminary privileged producer status.

If the period of validity of the bank guarantee expires before the expiry of preliminary privileged producer status, the preliminary privileged producer is required to extend its validity for at least one month longer than the period of validity of the status of preliminary privileged producer, no later than 60 days before the expiry of the bank guarantee.

If the preliminary privileged producer fails to fulfil the obligation referred to in paragraph 3 of the Article hereof, the preliminary privileged producer status shall be revoked and it shall be deemed that it has not acquired the privileged producer status within the deadline, and the bank guarantee shall be collected.

The bank guarantee may not contain any additional conditions or attachments to the payment demand, conditioning the payment of the bank guarantee in case of the realization of conditions for its activation.

The Ministry shall issue further detailed instructions for payment procurement and delivery of the security instrument on the website of the Ministry.

6. Requirements for the activation and return of the financial security instrument for acquiring the status of a preliminary privileged producer

Article 8

If the preliminary privileged producer:

1) Acquires the status of privileged producer within the deadline and in the manner prescribed by the Energy Law and the Regulation hereof for the total installed capacity of the power plant the status of a preliminary privileged producer has been acquired for, the financial security instrument shall be returned to the privileged producer in full;

2) Acquires the status of a privileged producer within the deadline and in the manner prescribed by the Energy Law and the Regulation hereof for the installed capacity lower than the one the status of a preliminary privileged producer has been acquired for, the financial security instrument shall be collected in proportion to the amount corresponding to the percentage of installed capacity of the power plant the status of a privileged producer has not been acquired for against the installed capacity the status of a preliminary producer has been acquired for, while the remaining amount of the financial security instrument shall not be collected;

3) Does not acquire the status of a privileged producer within the deadline and in the manner prescribed by the Energy Law or the status of a preliminary privileged producer is revoked, the financial security instrument shall be collected in its entirety, and/or the funds from the deposited cash deposit shall be permanently withdrawn;

4) Delivers another financial security instrument to the amount of the previous, the previous financial security instrument shall be returned to the preliminary privileged producer;

5) Enters into the previous status of preliminary privileged producer in accordance with Article 18 of the Regulation hereof, they shall be obliged to deliver the financial security instrument to the Ministry in accordance with Article 7 of the Regulation hereof.

The financial security instrument shall be returned in case the applicant has not acquired the status of a preliminary privileged producer.

Funds acquired through the activation of the financial security instrument shall be paid to the guaranteed supplier and shall be used for incentivising privileged producers.

A preliminary privileged producer shall specify in its request for return of the bank guarantee and/or return of the cash deposit, the manner of handover for the bank guarantee, and/or the account number and the name of the bank or another organization holding the accounts of the preliminary privileged producer and where the cash deposit funds shall be paid.

The Ministry is required to return the security instrument upon request within 30 days from the day when the conditions for return have occurred.

The Ministry shall not be materially liable if a preliminary privileged producer provides an incorrect address for the receipt of the bank guarantee, or an incorrect account number or the name of the bank for payment of the cash deposit, and for other reasons for failure to return the financial security instrument to the preliminary privileged producer, attributable to the preliminary privileged producer.

7. Requirements for acquiring the status of an electricity producer from renewable energy sources

Article 9

The status of an electricity producer from renewable energy sources may be acquired for the power plant if:

1) It uses renewable energy sources in the process of power generation regardless of the installed capacity;

2) It is built and suitable for use in accordance with the law regulating the construction of buildings;

3) It provides special metering, separate from metering in other technological processes, whereby electrical or thermal energy sent and delivered to the system is measured in the manner prescribed by Article 3, paragraph 1, item 3) of the Regulation hereof;

4) It holds a license to perform the activity of electricity generation, in accordance with the Energy Law.

(5) There is no valid status of a privileged producer of electricity for that power plant.

(6) It is connected to the distribution system, and/or the transmission system in accordance with the Energy Law and the secondary legislation adopted thereunder.

III. MAXIMUM CAPACITY FOR WIND POWER PLANTS AND SOLAR PLANTS

1. Maximum capacity

Article 10

For wind power plants and solar power plants, the maximum capacity for acquiring the status of a privileged producer or a preliminary privileged producer shall be prescribed depending on the category they belong to, as follows:

- 1) 500 MW for wind power plants;
- 2) 2 MW for solar power plants in the facility with an individual capacity of up to 30 kW.
- 3) 2 MW for solar power plants in the facility with an individual capacity exceeding 30 kW up to 500 kW;
- 4) 6 MW for solar power plants on the ground with an individual capacity of up to 500 kW.

2. Available capacity

Article 11

For each of the categories of power plants referred to in Article 10 of the Regulation hereof, the Ministry shall separately determine available capacities based on maximum capacity and engaged capacity.

The disengaged capacity for power plants as per Article 10 of the Regulation hereof shall be distributed only with an increase of the maximum capacity.

In the case referred to in Article 19 paragraph 3, the disengaged capacity as per paragraph 2 of the Article hereof includes the installed capacity of the power plant if the lender or the agent of the lender of the privileged producer, and/or the preliminary privileged producer does not propose a new entity for the privileged producer, and/or the preliminary privileged producer within the prescribed deadline.

3. Distribution of available capacity

Article 12

Available capacity shall be assessed on the day of submitting of the request, and shall be awarded as per the time of submitting the application for the status of preliminary privileged producer, and/or the status of a privileged producer if multiple applications have been filed on the same date.

For a wind power plant, and/or a solar power plant, there is available capacity only if its installed capacity is lower than or equal to the available capacities.

If the installed capacity of a power plant exceeds available capacity, the status of privileged producer, and/or preliminary privileged producer may be granted if the applicant rearranges the total installed capacity of the power plant to be less than or equal to the incentive capacity within a period no less than 30 nor more than 45 days from the date of delivery of the notice by the Ministry.

If the applicant fails to arrange or is unable to arrange the total installed capacity of the power plant to be equal to or lower than the available capacity within the period referred to in paragraph 3 of the Article hereof, the application shall be rejected.

The installed capacity of a wind plant or a solar power for which the preliminary privileged producer has been previously awarded shall be deemed to be lower than the available capacity if the application for acquiring the status of a privileged producer for the power plant or part of a power plant has been submitted no later than the date of expiry of the status of preliminary privileged producer.

Article 13

If the construction of a wind power plant or solar power plant is financed from an international loan, donations or similar means of international financing and represents the fulfilment of obligations of the Republic of Serbia assumed based on concluded international treaties, its installed capacity shall not be included in the engaged capacity and its capacity shall be deemed lower than the available capacity.

IV. DURATION AND TERMINATION OF THE STATUS OF A PRIVILEGED PRODUCER, PRELIMINARY PRIVILEGED PRODUCER AND PRODUCER FROM RENEWABLE ENERGY SOURCES

1. Duration of the status of privileged producer, preliminary privileged producer and producer from renewable energy sources

Article 14

The status of a privileged producer and the status of a producer from renewable energy sources shall last indefinitely, except in cases of the occurrence of the reasons for termination of the status prescribed by the Energy Law and the Regulation hereof.

The status of a preliminary privileged producer shall last during the period prescribed by the Energy Law, and its validity may be extended for:

1) A maximum of one year, subject to the condition that the power plants has been built,
or

2) A period necessary to remedy the effects of unforeseeable circumstances preventing the preliminary privileged producer from acquiring the status of a privileged producer in accordance with the Energy Law.

The status of a preliminary privileged producer may be extended only once based on paragraph 2, item 1) of the Article hereof, but if unforeseeable circumstances occur during an extended period, the status of preliminary privileged producer may be extended again based on paragraph 2, item 2) of the Article hereof.

The period necessary to remedy the effects of unforeseeable circumstances may not be longer than the period of validity of the status of a preliminary privileged producer.

2. Unforeseeable circumstances during the validity of the status of preliminary privileged producer

Article 15

The unforeseeable circumstances referred to in Article 14 of the Regulation hereof shall be any unforeseeable or unavoidable events beyond the power of the preliminary privileged producer, namely:

1) Natural disasters, such as fire, flood, earthquake, volcanic eruption and other forms of weather disasters, a state of war or state of emergency, terrorism, revolution, public demonstrations, sabotage, vandalism, strike and other cases of unforeseeable circumstances;

2) Delays by the competent authority or organization entrusted with public authority to issue the general and individual documents required for acquiring the status of a privileged producer within the prescribed period.

In case of failure of the competent authority to issue an individual document within the prescribed period, the preliminary privileged producer shall file an appeal, and/or suit due to the

lack of response from the administration or use another legal remedy against the failure of the competent authority to act within the prescribed period.

3. Changes during the validity of the status of privileged producer, preliminary privileged producer and producer from renewable energy sources

Article 16

In case of a change of information about the facts serving as the basis for acquiring the status of privileged producer, the status of preliminary privileged producer, and/or the status of a producer from renewable energy sources, the privileged producer, the preliminary privileged producer and the producer from renewable energy sources shall be required to inform the Ministry on the changes that have occurred within 60 days from the date of occurrence of the changes.

In the case referred to in paragraph 1 of the Article hereof, the Ministry shall modify the decision if the changes that have occurred do not affect compliance with the requirements the issued decision was based on, within 30 days after becoming aware of the changes.

4. Changes regarding a privileged producer, preliminary privileged producer and producer of electricity from renewable energy sources

Article 17

If the changes referred to in Article 16 of the Regulation hereof relate to a privileged producer and a producer from renewable energy sources based on a status change, succession, change of legal form or legal transaction, the request for modification of the decision may be filed by the legal successor or the person the respective status will be transferred to.

Along with the request for modification of the decision, the legal successor shall file a proof of a final and enforceable decision on inheritance, as well as a decision on the status change, or change of legal form or other document clearly showing the legal continuity of the applicant with the privileged producer or the producer from renewable energy sources.

In case of an assignment of the respective status based on a legal transaction, the request for modification of the decision shall be supplemented by a certified statement of the privileged producer, and/or producer from renewable energy sources giving explicit consent that the rights and obligations arising from the status be transferred.

For power plants with installed capacity of 30 MW or more, the lender or the agent of the lender of the privileged producer or the preliminary privileged producer who enabled the financing of the power plant may submit a request for the modification of the decision on acquiring the status of privileged producer or the status of preliminary privileged producer in the name of another person, if they submit the following:

- 1) A loan agreement proving that the lender, regardless of whether it is one or several persons, enabled the financing of the plant;
- 2) A certified statement of the privileged producer that the lender or the lender's agent may, without their consent, propose another person as the privileged producer;
- 3) A certified statement and signature of the person proposed by the lender or the agent of the lender of accepting to become a privileged producer or preliminary privileged producer, with appropriate documents in accordance with Article 20 and 21 of the Regulation hereof serving as

the basis whereby the proposed person meets the requirements to become the privileged producer or preliminary privileged producer;

4) Evidence that the proposed person referred to in item 3) of the paragraph hereof holds ownership rights, lease or other real rights that may serve as the basis for operating the power plant which is the subject of the request for modification of the decision.

The holder of the status of preliminary privileged producer may not be changed during the validity of the status of a preliminary privileged producer, save in the case referred to in paragraph 4 of the Article hereof.

5. Changes regarding the power plant during the validity of the status of privileged producer, preliminary privileged producer and producer from renewable energy sources

Article 18

If the facts regarding the power plant change during the period of validity of the status of privileged producer, preliminary privileged producer or producer from renewable energy sources, the decision may be modified if those changes do not affect compliance with the conditions applicable for acquiring the status of a privileged producer, preliminary privileged producer or producer from renewable energy sources.

6. Termination of the status of privileged producer, preliminary privileged producer and producer from renewable energy sources

Article 19

The status of privileged producer shall be terminated:

1) On the date the decision on revoking the status of a privileged producer becomes final, or on the date of cessation of validity of the decision on acquiring the status of a privileged producer;

2) On the date of termination of the power purchase agreement with a guaranteed supplier;

3) On the day of opening bankruptcy or liquidation proceedings against the privileged producer;

4) On the day of deleting the privileged producer as an entrepreneur from the Business Register, unless the deletion was made due to the change of legal form.

The status of a preliminary privileged producer shall be terminated:

1) On the date the decision on revoking the status of a preliminary privileged producer becomes final, or on the date of cessation of validity of the decision on acquiring the status of a preliminary privileged producer;

2) On the day of opening bankruptcy or liquidation proceedings against the preliminary privileged producer;

3) On the day of deleting the preliminary privileged producer as an entrepreneur from the Business Register, unless the deletion was made due to the change of legal form;

4) On the date of the expiry of validity of the status of a preliminary privileged producer;

5) On the date of termination of the power purchase agreement with a guaranteed supplier.

For power plants with an installed capacity of 30 MW or more, the lender or the agent of the lender of the privileged producer or the preliminary privileged producer for whom their status as per paragraphs 1 and 2 of the Article hereof is no longer valid, is entitled to propose a new person as the privileged producer or the preliminary privileged producer within three months as of the date of receipt of the notification on the cessation of the status as per paragraphs 1 and 2 of the Article hereof.

The lender or the agent of the lender of the privileged producer or the preliminary privileged producer may submit a request within the term as per paragraph 3 of the Article hereof for the acquisition of the status of privileged producer or preliminary privileged producer on behalf of, and for the account of the new person, or issue a certified confirmation to the new person confirming it was appointed to submit the application for the acquisition of the status of privileged producer or preliminary privileged producer.

The status of a producer from renewable energy sources shall be terminated on the date the decision on revoking the status of privileged producer becomes final in case of revocation of such status, or the date of cessation of validity of the decision serving as the basis for acquiring the status, as well as based on the producer's statement that the decision on acquiring the status of a producer from renewable energy sources be revoked.

V. PROCEDURE FOR ACQUIRING THE STATUS OF PRIVILEGED PRODUCER, PRODUCER FROM RENEWABLE ENERGY SOURCES, ACQUISITION AND EXTENSION OF THE STATUS OF PRELIMINARY PRIVILEGED PRODUCER

1. Application and evidence for acquiring the status of preliminary privileged producer

Article 20

The procedure for acquiring the status of privileged producer is initiated based on an application submitted on the form determined by the Ministry and published on its official web page.

Applications shall be submitted separately for each power plant, or part of a power plant.

The application for acquiring the status of privileged producer shall be accompanied by the following:

1) For a legal person or entrepreneur: a statement on the registered data (business name, legal form, registered seat, business activity, tax identification number, corporate identification number);

2) For a natural person: a photocopy of the identity card, and/or citizenship certificate or a photocopy of the passport, if the applicant is a foreign national;

3) Use permit in accordance with the law governing the planning and construction of buildings or a certificate of the authority that it is not necessary to acquire a use permit for the built plant or part of the power plant;

4) For solar power plants on the facility, a property sheet with the copy of the cadastral plan for the facility whereupon the power plant is installed, if the facility whereupon the power plant is installed cannot be determined based on the evidence referred to in paragraph 3, item 3) of the Article hereof;

5) For a reconstructed plant, evidence on reconstruction of the plant with the date of construction and commissioning of the reconstructed plant if the fact that the power plant has

been reconstructed cannot be determined based on the evidence referred to in paragraph 3, item 3) of the Article hereof;

6) Approval for connecting the power plant with a schematic of the measuring devices;

7) Evidence that the installed equipment has not been used previously, including: data on the year of manufacture, receipt of the purchase of equipment or works, a contract with the manufacturer/supplier, a declaration of the manufacturer/supplier or similar evidence unequivocally proving that the installed equipment has not been used previously;

8) A certified statement of the responsible person of the applicant confirming, under material and criminal liability, that the installed equipment has not been used previously;

9) A contract on the sale of thermal energy, or a certificate of the applicant that the produced thermal energy is used for its own needs, including heating the facilities or consumption of thermal energy for production processes, if the application relates to the power plant referred to in Article 4 of the Regulation hereof;

10) A copy of the report on the thermo-technical inspection conducted for acceptance purposes, issued by an accredited institution, demonstrating that the as-built plant has technical capacities to meet the prescribed requirement in respect of the minimum annual efficiency level for a power plant as per Article 4 of the Regulation hereof;

11) A license for engaging in the activity of electricity production, in accordance with the Energy Law;

12) For the power plants referred to in Article 4 of the Regulation hereof, a certificate issued by an energy inspector on the built-in measuring devices and designated measuring points measuring the overall generated and delivered energy and consumed fuel;

13) In case referred to in Article 19, paragraph 3 of the Regulation hereof, a certified confirmation of the lender or the agent of the lender certifying that the applicant is appointed for the submission of application for acquiring the status of privileged producer;

14) Proof of payment of administrative fees.

2. Application and evidence for acquiring the status of preliminary privileged producer

Article 21

The procedure for acquiring the status of preliminary privileged producer is initiated based on the application submitted on the form determined by the Ministry and published on its official web page.

Applications shall be submitted separately for each power plant.

The application for acquiring the status of a preliminary privileged producer shall be accompanied by:

1) For a legal person, and/or entrepreneur: a statement on the registered data (business name, legal form, registered seat, business activity, tax identification number, corporate identification number);

2) For a natural person: a photocopy of the identity card, and/or citizenship certificate or a photocopy of the passport if the applicant is a foreign national;

3) Final and enforceable building permit or final and enforceable approval for construction, unless it is not necessary to acquire a decision by the competent authority for the construction for the power plant, in which case information on the location not older than 6 months shall be submitted;

4) A copy of an extract from the project documentation for the purpose of acquiring the building permit, or the preliminary design or other technical documents serving as the basis for the construction of the power plant, in accordance with the law governing the planning and construction of buildings;

5) For solar power plants on the facility, the property sheet for the facility on which the power plant is planned to be installed with the copy of the cadastre plan, if evidence referred to in item 3) of the Article hereof cannot clearly show the facility whereupon the power plant is planned to be installed;

6) A document (opinion, conditions, etc.) about the possibility for connection to the distribution, and/or transmission system issued by the operator of the transmission, an/or distribution system acquired during previous procedures for the purpose of issuing the building permit and the preparation of technical documentation for the power plant;

7) Confirmation of payment of the cash deposit, or the original copy of the bank guarantee acquired in accordance with the provisions of the Regulation hereof;

8) In the case referred to in Article 19, paragraph 3 of the Regulation hereof, a certified confirmation of the lender or the agent of the lender confirming that the applicant is appointed for the submission of application for acquiring the status of privileged producer;

9) Proof of payment of administrative fees.

3. Application for an extension of the validity of the status of preliminary privileged producer

Article 22

The application for an extension of validity of the status of preliminary privileged producer shall be submitted in free form and shall contain in particular: the number of the decision on the acquisition of the status of a preliminary privileged producer the extension is requested for, the legal basis for the extension of validity of the status of preliminary privileged producer, the facts and evidence the preliminary privileged producer supports its statements with, as well as a proposal for the deadline wherein the applicant considers the status of a preliminary privileged producer should be extended, and a proof of payment of administrative fees.

If a bank guarantee is submitted when acquiring the status of preliminary privileged producer, the preliminary privileged producer shall be required to deliver either a new bank guarantee or a bank guarantee with an extended validity, or a proof of payment of the cash deposit along with the application referred to in paragraph 1 of the Article hereof.

4. Evidence for an extension of validity of the status of preliminary privileged producer when the power plant has been built

Article 23

The application for an extension of validity of the status of a preliminary privileged producer, based on Article 71, paragraph 3 of the Energy Law, shall be accompanied by the final payment certificate of the contractor on the handover of works on the power plant, certified by a professional supervisor, or another document confirming that the power plants has been built.

If the power plant is not subject to technical inspection according to legislation regulating the planning and construction of buildings, the preliminary privileged producer shall submit the minutes on the handover of works on the power plant signed with the contractor or another document certifying that the power plant has been built.

5. Evidence for an extension of validity of the status of preliminary privileged producer in case of unforeseeable circumstances

Article 24

If the application for an extension of validity of the status of a preliminary privileged producer is based on Article 71, paragraph 5 of the Energy Law, the applicant is required to submit documents confirming that unforeseeable circumstances have prevented the preliminary privileged producer from acquiring the status of privileged producer within the prescribed time limit, unless they are widely known (earthquakes, floods, volcanic eruptions, etc.).

In case of unforeseeable circumstances referred to in Article 15, paragraph 1, item 2) of the Article hereof, the application referred to in paragraph 1 of the Article hereof shall be accompanied by a proof of filing a suit, appeal, objection or any other legal remedy due to the action or failure to act of the competent authority within the prescribed deadline.

6. Application and evidence for acquiring the status of producer from renewable sources

Article 25

The procedure for acquiring the status of producer from renewable energy sources is initiated based on the application submitted on the form determined by the Ministry and published on its official web page.

Applications shall be submitted separately for each power plant.

The application for acquiring the status of producer from renewable sources shall be accompanied by the evidence referred to in Article 20, paragraph 3, items 1), 2), 3), 6), 11) and 14) hereof.

7. Common provisions on the procedure for acquiring the status of a privileged producer, producer from renewable energy sources, the acquisition and extension of the status of a preliminary privileged producer

Article 26

The status of privileged producer, preliminary privileged producer, extension of the status of preliminary privileged producer and producer from renewable energy sources shall be issued within 30 days as of the date of the application, if the requirements set out by the Energy Law and the Regulation hereof have been met.

Upon receipt of the application the application shall be checked for whether it is in order, complete and submitted on the appropriate form and whether the application referred to in paragraph 1 hereof is accompanied by adequate evidence.

For solar power plants and wind power plants, the existence of available capacities will first be established *ex officio*, followed by the remaining conditions for issuing the status of privileged producer or preliminary privileged producer.

If it is impossible to determine whether all the requirements have been met for acquiring the status of privileged producer, producer from renewable energy sources, acquisition and extension of the status of preliminary privileged producer based on the evidence referred to in Articles 20, 21 and 22 hereof, other evidence may be used in accordance with the law governing general administrative proceedings.

If the application is not submitted on the appropriate form prescribed by the Regulation hereof, or if it is unintelligible, incomplete or not supplied with the evidence as per Articles 20, 21 and 22 of the Regulation hereof, actions shall be taken in accordance with the law governing general administrative proceedings.

An untimely application of a preliminary privileged producer for acquiring the status of privileged producer or for an extension of the status of preliminary privileged producer shall be rejected.

All matters concerning administrative proceedings not regulated specifically herein shall be subject to the law governing general administrative proceedings.

VI. OBLIGATIONS OF A PRIVILEGED PRODUCER, PRELIMINARY PRIVILEGED PRODUCER AND PRODUCER FROM RENEWABLE ENERGY SOURCES

1. Obligations of a privileged producer

Article 27

A privileged producer shall:

1) Provide for the power plant referred to in Article 3, paragraph 1, item 1), sub-item (3) hereof to have the energy value of the primary fuel, and/or biomass of at least 80% of the total energy value of consumption of primary fuel per annum;

2) Provide that the power plants referred to in Article 3, paragraph 1, item 1), sub-items (4), (5) and (9) and in Article 4 of the Regulation hereof, have the energy value of the primary fuel of at least 90% of the total energy value of consumption of primary fuel per annum;

3) Provide that the power plant referred to in Article 3, paragraph 1, item 1), sub-item (8) of the Regulation hereof has the energy value of used geothermal energy for electricity generation of at least 90% of the energy value of the consumed primary energy;

4) Provide that the power plant referred to in Article 3, paragraph 1, item 1), sub-item (4) hereof has the share of corn silage in the annual mass balance of the substrate solids not exceeding 40%;

5) Keep a record of the used primary and additional fuels recording the amount and the average lower calorific value of consumed fuel in power plants under Article 3, paragraph 1, item 1), sub-items (3) (4), (5) and (9) and in Article 4 hereof, serving as the basis for producing the report for the previous calendar year;

6) Notify the Ministry in writing of any planned changes to the data in the application for acquiring the status of privileged producer, or of any planned changes in the technological process, the types of primary fuel or other characteristics of the power plant of importance for acquiring the status of privileged producer in accordance with the Energy Law and the Regulation hereof, at the latest 30 days before commencing the planned works;

7) Provide that the power plants referred to in Article 4 of the Regulation hereof achieve the minimum total annual level of efficiency specified in Article 4, paragraph 1, item 1) of the Regulation hereof;

8) Not take electrical power from the network for power plant consumption to an amount higher than 10% of the electrical power produced in the power plant annually, whereby the general consumption of the power plant, in case of separate metering, shall not be included in that calculation;

9) Provide the Ministry with a report for the previous calendar year by the end of February of the current year, with data proving that it meets the obligations set forth in paragraph 1, items 1), 2), 3), 4), 7) and 8) of the Article hereof;

10) Not change the installed capacity of the power plant for wind power plants and for solar power plants.

The accuracy of the records referred to in paragraph 1, item 5) of the Article hereof shall be evidenced by:

1) Copies of the receipts of the purchase of fuel with supporting documents accompanying the fuel, while in case the privileged producer for the plant has their own fuel production, measured quantities of consumed fuels for each fuel, registered over the installed and sealed measuring and registering gauges for continuous monitoring of the consumption for each type of fuel not purchased;

2) The results of the analysis of the lower calorific value of a representative sample for each purchase of fuel executed by accredited institutions, and in the case of use of fuel produced by the privileged producer, the results of analyses of representative samples of each type of fuel, completed once per year for power plants with installed electric capacities greater than or equal to 200 kW, or only once during the first year after acquiring the status of privileged producer for power plants with capacity below 200 kW.

The report referred to in paragraph 1, item 9) of the Article hereof shall be submitted in the form of a report presenting the flows of material and energy in the power plant, accompanied by copies of the receipts for the purchase of fuels and inventory statements, as well as receipts for the thermal power sold, unless all of the thermal power produced is used for own needs. When presenting the material flows, the mass of solid content of raw materials used as energy sources in the power plant should be calculated and presented separately.

In the case of using forest biomass as a primary or supplemental fuel, the evidence referred to in paragraph 2 of the Article hereof shall be considered valid only if it is confirmed that the purchased forest biomass comes from forests managed according to legislation regulating forestry, and/or that the fuel has not been the subject of illegal logging.

2. Obligations of a preliminary privileged producer

Article 28

A preliminary privileged producer shall:

1) Maintain the validity of the financial security instrument;

2) Not change the installed capacity of the power plant it has acquired the status of a preliminary privileged producer for;

3) When eliminating the consequences of unforeseeable circumstances, use all reasonable measures necessary to overcome the unforeseeable circumstances and provide to the Ministry monthly progress reports, with descriptions and evidence of actions undertaken to end the consequences of such circumstances.

3. Obligations of a producer from renewable energy sources

Article 29

A producer from renewable energy sources shall use renewable energy sources in the process of production of electricity.

Pursuant to Article 27, paragraphs 2 and 4 hereof, a producer from renewable energy sources shall keep a record of the used primary and additional fuels recording the amount and the average lower calorific value of fuel consumed in power plants under Article 3, paragraph 1, item 1), sub-items (3) (4), (5) and (9) and in Article 4 of the Regulation hereof, to be used as the basis for preparing a report for the previous calendar year.

The report referred to in paragraph 2 of the Article hereof shall be submitted to the Ministry by the end of February of the current year for the previous calendar year pursuant to Article 27, paragraph 3 of the Regulation hereof.

VII. REGISTRY OF PRIVILEGED PRODUCERS, PRELIMINARY PRIVILEGED PRODUCERS AND PRODUCERS FROM RENEWABLE ENERGY SOURCES

1. Registry

Article 30

The registry of privileged producers, preliminary privileged producers and producers from renewable energy sources (hereinafter: the Registry) is an integrated, central and electronic database, publicly available to all interested parties, containing information on the producers:

- 1) Having the status of privileged producer;
- 2) Having the status of preliminary privileged producer;
- 3) Having the status of producers from renewable energy sources;
- 4) Those for whom the status referred to in items 1), 2) and 3) of the paragraph hereof ceased to be valid.

The registry consists of two parts: the central registry and the secondary registry.

2. Central registry

Article 31

The following data shall be entered in the central registry:

- 1) Identification number, name, address and type of privileged producer, preliminary privileged producer and producer from renewable energy sources (legal person, entrepreneur, natural person);
- 2) Basic information on the power plant:
 - (2.1.) Name and location of the power plant;
 - (2.2.) Basic technical data:
 - 2.2.1. Power plant type;
 - 2.2.2. Primary and supplementary fuel (only for power plants that use fuel);
 - 2.2.3. Number of generating units and their individual installed capacity as well as total installed capacity of the power plant, and in the case of combined production also total installed thermal power;
 - 2.2.4. Date of connection to the network;
 - 2.2.5. Year of the expected end of life of the power plant;
 - 2.2.6. Nominal voltage of the network the power plant is connected to;
 - 2.2.7. Expected annual production of electricity;
 - (2.3.) Person responsible for the operation of the power plant;

3. Decision number, date of issue, date of modification and date of expiration of the decision on acquiring the status of privileged producer, the decision on acquiring the status of producer from renewable energy sources, as well as the decision on the status of preliminary privileged producer, if issued;

4. The digital version of the decisions;

5. The date of the last update.

The website of the Ministry shall separately show within the central registry data on producers that have the status of privileged producer, the status of preliminary privileged producer and the status of producer from renewable energy sources, and separately the data on producers whose status ceased to be valid.

In case of change of a privileged producer and a producer from renewable energy sources, a new privileged producer or a new producer from renewable energy sources shall be entered into the registry, and a note shall be entered next to the previous privileged producer and producer from renewable energy sources stating that they are no longer a privileged producer or a producer from renewable energy sources.

3. Secondary registry

Article 32

The secondary registry shall contain data of importance for accurate data management and transparency of data input for wind power plants and solar power plants in the central registry.

The secondary registry shall contain a list of submitted applications for acquiring the status of preliminary privileged producer and privileged producer for wind power plants and solar power plants, as well as the requests for the extension of the status of preliminary privileged producer, in particular containing:

1. The date of submission of the application;

2. Application number;

3. The subject of the application;

4. The name of the applicant;

5. The installed capacity of the power plant the status of a preliminary privileged producer or the status of a privileged producer is requested for;

6. The installed capacity of the power plant that was granted the status of preliminary privileged producer or the status of privileged producer;

7. The data whether the application has been positively or negatively resolved or that the procedure of resolving the application is in progress;

4. The manner of keeping and availability of registry data

Article 33

The Ministry shall update the data in the central registry without delay as of the moment of learning about the reasons for update, and shall have the date of the last update visibly displayed on its web page.

The Ministry shall update the secondary registry and publish it at least once a month.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 34

As of the date of entry into force of the Regulation hereof, the provisions of the Regulation hereof regulating the obligations of a preliminary privileged producer and privileged producer, the conditions for termination of the status of preliminary privileged producer and privileged producer, and the conditions for extension of the status of preliminary privileged producer shall also apply to the statuses of preliminary privileged producers or privileged producers, acquired up until the date of entry into force of the Regulation hereof.

The validity of the status of a preliminary privileged producer, acquired up until the date of entry into force of the Regulation hereof, shall last in accordance with the legislation in force at the time of acquiring the status of a preliminary privileged producer.

A preliminary privileged producer who provided a bank guarantee with its validity expiring before the expiry of validity of the status of preliminary privileged producer, shall extend the validity of the bank guarantee no later than 60 days before the expiry of the validity for at least one month longer than the period of validity of the status of preliminary privileged producer.

If a preliminary privileged producer fails to meet the obligation set forth in paragraph 3 of the Article hereof, their status of preliminary privileged producer shall be revoked and they shall be deemed not to have acquired privileged producer status within the deadline, and the bank guarantee shall be collected.

As of the date of entry into force of the Regulation hereof, the statuses granted to privileged producers and preliminary privileged producers for wind power plants and solar power plants shall be counted in the engaged capacity with the installed capacity of the power plant, or part of the power plant they acquired the status of the (preliminary) privileged producer for.

The Ministry is required to prescribe and publish the forms referred to in articles 20, 21 and 25 of the Regulation hereof on its web page within 15 days following the day of entry into force of the Regulation hereof.

Until the forms referred to in paragraph 5 of the Article hereof have been published, the forms prescribed by the Regulation on Requirements and Procedure of Acquiring the Status of Privileged Producer (“Official Gazette of RS”, no. 8/13 and 70/14) shall be applicable.

The Ministry is required to establish the register referred to in Article 30 hereof and make it available to all interested parties on its official web page within 15 days from the date of entry into force of the Regulation hereof.

Article 35

The Regulation on Requirements and Procedure of Acquiring the Status of a Privileged Producer (“Official Gazette of RS”, no. 8/13 and 70/14) shall cease to be in force as of the date of entry into force of the Regulation hereof.

Article 36

The Regulation hereof shall enter into force on the following day after the date of its publication in the “Official Gazette of the Republic of Serbia”, except for the provision of Article 27, paragraph 1, item 9) of the Regulation hereof and the provisions of Article 29, paragraph 3 of the Regulation hereof, to be applied as of 1 January 2017.

05 No.
In Belgrade,

THE GOVERNMENT

PRIME MINISTER