

DECISION No. 27/2002/QĐ-BCN OF JUNE 18, 2002 PROMULGATING THE REGULATION ON CONDITIONS, ORDER AND PROCEDURES FOR LICENSING ELECTRICITY ACTIVITIES

Pursuant to the Government's Decree No.74/CP of November 1, 1995 on the functions, tasks, powers and organizational apparatus of the Ministry of Industry;

Pursuant to the Government's Decree No.45/2001/ND-CP of August 2, 2001 on electricity activities and use;

At the proposal of the director of the Planning and Investment Department,

DECIDES:

Article 1.- To promulgate together with this Decision the Regulation on conditions, order and procedures for licensing electricity activities.

Article 2.- This Decision takes effect 15 days after its signing.

Article 3.- The director of the Office, the chief inspector, the directors of the Departments, of the Ministry, the People's Committees of the provinces and centrally-run cities, the general director of Vietnam Electricity Corporation and organizations as well as individuals engaged in electricity activities shall have to implement this Decision.

For the Minister of Industry
Vice Minister
HOANG TRUNG HAI

REGULATION ON CONDITIONS, ORDER AND PROCEDURES FOR LICENSING ELECTRICITY ACTIVITIES

(Promulgated together with Decision No. 27/2002/QĐ-BCN of June 18, 2002 of the Minister of Industry)

Chapter I

GENERAL PROVISIONS

Article 1.- Electric energy is a special commodity. The State exercises the unified management over electricity activities and use nationwide by laws, policies, planning and plans on electricity development. Electricity production and trading constitute a conditional business line.

Organizations and individuals are allowed to conduct electricity activities in the domains prescribed in Article 2 below only when they get the electricity activity licenses and have to maintain the registered conditions throughout the operation duration.

Article 2.- This Regulation guides the conditions, order and procedures for licensing electricity activities in the following electricity domains, excluding the domains prescribed in Article 3 of this Regulation:

1. Planning consultancy: The planning on development of national electricity, the plannings on development of electricity of the provinces and centrally-run cities (hereinafter called collectively the provinces), the planning on river hydro-electric power ladder.
2. Electricity construction investment consultancy: Elaboration of investment projects (pre-feasibility study reports, feasibility study reports, investment reports), designs (technical designs, construction technical design- total cost estimate), bidding (compilation of bidding dossiers, organization of bidding, bid consideration), construction supervision.
3. Electricity production.
4. Electricity transmission.
5. Electricity distribution and trading.

Article 3.- The following domains require no electricity activity licenses:

1. Consultancy on evaluation and criticism of electricity projects.
2. Consultancy on planning on development of electricity of urban districts, rural districts, provincial towns and cities.
3. Production of electricity for own use without selling electricity to other organizations, individuals.
4. Production of electricity with installed capacity of under 50 kW for sale to other organizations, individuals.
5. Individual business households registering small-scale rural electricity business (total transformer capacity of 50 kVA or under) or buying electricity from the national grid and selling electricity directly to peasant households.
6. Electricity construction and installation.

Article 4.- A competent body shall grant one electricity activity license to an organization or individual registering for operation in one or several domains of electricity activities.

Article 5.- The electricity activity licenses are granted definitely or indefinitely, based on the domains, operation scopes, types of electricity project, registration time limits, professional capability and qualifications of the units engaged in electricity activities. The definite electricity activity licenses can be extended if the prescribed conditions are met.

Article 6.- The licenses for electricity activities in the domains of electricity planning consultancy, electricity construction investment consultancy, consultancy on supervision of construction of electricity projects shall be valid.

The licenses for electricity activities in the domain of electricity generation shall be granted to every specific power plant.

The licenses for electricity activities in the domain of electricity transmission shall be granted to regional transmission grids according to scope of management of electricity transmission grids.

The licenses for electricity activities in the domain of electricity distribution and trading shall be granted to electricity distribution networks with specific geographical areas.

Article 7.- Organizations and individuals applying for electricity activity licenses shall have to submit complete valid dossiers and pay the licensing fees to the competent licensing agencies as provided for in Chapter III of this Regulation.

Chapter II

CONDITIONS FOR LICENSING ELECTRICITY ACTIVITIES

Article 8.- Organizations and individuals registering for the granting of electricity activity licenses must satisfy the following general conditions:

1. They are organizations and individuals with business registration (or scientific and technological consultancy activity registration), set up and operating under the current law provisions, including:

- a) State enterprises set up and operating under the State Enterprise Law.
- b) Enterprises set up and operating under the Enterprise Law.
- c) Foreign-invested enterprises set up and operating under the Law on Foreign Investment in Vietnam.
- d) Cooperatives set up and operating under the Law on Cooperatives.
- e) Individual business households with business registration for electricity activities under the Government's Decree No.02/2000/ND-CP of February 3, 2000 on business registration.
- f) Other organizations set up under the provisions of law.

2. Their material and technical foundations satisfy the requirements on techniques, labor safety, fire and explosion prevention and fighting, environmental protection under the current law provisions.

3. They are financially capable of meeting the requirements of the registered electricity activity domains.

4. They have contingents of well-trained managerial officials, technicians, employees engaged in electricity activities, who satisfy requirements on professional qualifications suitable to the registered electricity activity domains.

Article 9.- Organizations registering for planning consultancy activities, apart from the conditions prescribed in Article 8, shall also have to meet the following conditions:

1. For national electricity development planning consultancy:

- a) They are specialized consultancy organizations, professionally capable of planning forms of primary energy, planning electricity sources and grids, forecasting demands, studying and analyzing consumption markets, calculating and analyzing optimal planning on electricity systems, making technical, economic and financial analysis of projects.
- b) They have contingents of consultants with experiences in various types of power plants, electricity systems, economic and financial matters and environment. Consultants taking charge of the major professional domains of consultancy organizations must have experiences, working at least for seven years in the consultancy field and have participated in elaborating at least one national electricity development planning.
- c) They have equipment, technical means, necessary applied software meeting the requirements of the elaboration of national electricity development planning.

2. For provincial electricity development planning consultancy:

- a) They are specialized consultancy organizations and professionally capable of planning the development of electricity sources and grids, studying and forecasting load, calculating and analyzing optimal electricity distribution networks, making economic and financial analyses.
- b) They have the contingents of consultants with experiences in load forecast, structure and regime of operation of electricity sources and grids, economic and financial analysis of projects. Consultants taking charge of major professional domains must have experiences, working in the consultancy field for at least five years and having participated in elaborating at least one provincial electricity planning.
- c) They have equipment, technical means, applied software necessary for elaboration of the provincial electricity development planning.

3. For river hydro-electric ladder planning consultancy

- a) They are consultancy organizations, specialized in hydro-electric power industry, having professional capability in hydromechanics, hydrology, hydrodynamics, engineering geology, hydro-electric construction and other domains related to the elaboration of hydro-electric ladder planning.
- b) They have contingents of consultants with experiences in the fields of hydrology, hydromechanics, hydro-electric plant construction. Consultants taking charge of major professional domains of the consultancy organizations must have working experiences, having worked for at least five years in the consultancy field and having participated in the elaboration of at least one hydro-electric ladder planning.
- c) They have equipment, technical means and applied software necessary for the elaboration of hydro-electric ladder planning.

Article 10.- Organizations registering for electricity construction investment consultancy activities may, depending on their professional capabilities, register for activities in one or many professional domains (investment project elaboration, designs, bidding), for one or many types of electric projects (power plants, power transmission lines, transformer stations), and, besides the conditions prescribed in Article 8, shall also have

to meet the following conditions:

1. For power plant projects:

- a) They are specialized consultancy organizations, have the professional capabilities in technologies and power plant projects, technical, economic and financial analysis of projects, assessment of environmental impacts.
- b) They have the contingents of consultants who have experiences in the domains of boilers, turbines, generators, electric equipment, water treatment, automatic control, hydromechanics, hydrology, hydrodynamics, engineering geology, hydro-electric plant construction and domains related to different types of power plants. Consultants taking charge of major professional domains must have university or higher degree, have experiences, having worked in the consultancy domains for at least five years and participated in providing consultancy for at least one power plant project.
- c) They have equipment and technical means, applied software necessary for consultancy on investment in construction of thermo-power plants, hydro-electric plants.

2. For transmission line and transformer station projects

- a) They are specialized consultancy organizations, have professional capabilities in project designing, equipment of transmission lines and transformer stations, relay protection, automatic control, environmental impact assessment, economic and financial analysis of projects for transmission line works and transformer stations with appropriate voltages.
- b) They have contingents of consultants who have experiences in the domains of transmission line physio-mechanics, electric equipment, automatic control, relay protection, construction structure. Consultants taking charge of major professional domains must have university or higher degree, have experiences, having worked for at least five years in the consultancy field and having participated in execution of at least one project on transmission line or transformer station with corresponding voltages.
- c) They have equipment, technical means and applied software necessary for consultancy on investment in the construction of transmission line and transformer station works.

Article 11.- Organizations which register for consultancy activities of supervision of the construction of electricity works may, depending on their professional capabilities, register for activities for one or many types of electricity works (power plants, transmission lines and transformer stations with different voltages) and, apart from the conditions prescribed in Article 8, shall have to meet the following conditions:

- 1. They are specialized consultancy organizations, have professional capabilities on thermo-electric plant and/or hydro-electric power plant projects, and projects on transmission lines and transformer stations with different voltages.
- 2. They have contingents of consultants who have experiences in the domains of boilers, turbines, generators, electric equipment, water treatment, automatic control, hydromechanics, hydrology, engineering geology, hydro-electric construction, transmission line physio-mechanics, relay protection, construction structure. Consultants taking charge of major professional domains must have university or higher degree, and have experiences, having worked for at least five years in the consultancy field and having participated in supervision of the construction of at least one electric project of the same type.
- 3. They have equipment, technical means necessary for the supervision of the construction of power plants or transmission lines and transformer stations with corresponding voltages.

Article 12.- Organizations and individuals that register for electricity production activities shall, besides the conditions prescribed in Article 8, have also meet the following conditions:

- 1. They have technological equipment, service facilities, workshops, architectural works strictly according to the approved technical designs, which have been built, installed, tested before acceptance, and met current standards and technical norms.
- 2. Directors, deputy directors or persons directly taking charge of the technical matters and production must have university degree in electricity major or appropriate techniques and have worked in the field of electricity production for at least five years. The contingent of workers directly engaged in the operation thereof must be trained and examined in the operation process and safety process.

Article 13.- Organizations registering for electricity transmission activities shall, besides the conditions prescribed in Article 8, have also to meet the following conditions:

- 1. They have technological equipment, service facilities, workshops, architectural works strictly according to the approved technical designs, which have been built, installed, tested before acceptance and met the current technical standards and norms, satisfied the requirements of the work of maintaining, repairing and checking electric power transmission lines, transformer stations, breaker stations, compen-sator stations in the power transmission system.
- 2. Directors, deputy directors in charge of technical matters must have university degree in electricity major and have worked in the field of power transmission for at least five years. The contingent of workers directly engaged in operation must be trained and examined in operation process and safety regulations.

Article 14.- Organizations and individuals that register for activities in electricity distribution and trading shall, besides the conditions prescribed in Article 8, have also to meet the following conditions:

- 1. They have technological equipment, service means, workshops, architectural works which are constructed, installed, tested before acceptance and met the technical standards according to the approved technical designs and current norms, satisfied the requirements of the work of operating, maintaining and repairing electricity distribution networks, transformer stations and accompanied equipment in complete sets.
- 2. Directors, deputy directors or persons directly managing technical matters and/or production must have intermediate vocational training diploma or higher degree in electricity, and have worked in the field of electricity distribution and trading for at least five years. The contingent of workers directly engaged in the operation must be professionally trained and examined in the operation process and safety regulations according to the prescribed grades and ranks.

For individual business households dealing in rural electricity, they must have the contingent of rural electricians who have been trained in electricity, have graduation certificates granted by competent vocational training establishments, have the capability to fulfill their professional tasks. The rural electricians must be trained and examined annually in electric safety and granted safety cards for working in the rural electricity networks.

ORDER AND PROCEDURES FOR LICENSING ELECTRICITY ACTIVITIES

Article 15.- The competence to grant electricity activity licenses is prescribed as follows:

1. The Ministry of Industry shall grant electricity activity licenses to:

- a) Organizations which provide consultancy on national electricity development planning, the provincial electricity development planning, the river hydro-electric ladder planning.
- b) Organizations which provide consultancy on electricity construction investment, operate in one or many domains such as elaboration of investment projects, designs, bidding, for one or many types of electricity projects such as power plants, electricity transmission lines and transformer stations of various voltages.
- c) Organizations which provide consultancy on supervision of construction of power plant projects, transmission line projects and transformer stations according to different voltages.
- d) Power plants directly managed by Vietnam Electricity Corporation and power plants managed by other organizations or individuals, which have the installed capacity of over 10,000 kW.
- e) Electricity transmission companies under Vietnam Electricity Corporation.
- f) Electricity companies, provincial electricity authorities under Vietnam Electricity Corporation as well as other organizations and individuals that manage and operate electricity distribution grids of 110 kV or lower operating in the geographical areas of many provinces and/or cities.
- g) Organizations conducting electricity export and import activities.

2. The provincial People's Committees grant or authorize the provincial Industry Services to grant electricity activity licenses to:

- a) Organizations which provide consultancy on investment in the construction of power lines and transformer stations of 35 kV or lower and make business registration in their respective localities.
- b) Organizations which provide consultancy on supervision of the construction of projects on transmission lines and transformer stations of 35 kV or lower and make business registration in their respective localities.
- c) Organizations and individuals that manage and operate power plants, electricity-generating stations and produce electricity for sale, with the installed capacity of between 50 kW and 10,000 kW in their respective localities.
- d) Organizations which manage and operate electricity distribution grids of between 35 kV or lower in their respective localities.
- e) Organizations and individual business households that register rural electricity business in the provinces and operate in their respective localities.

Article 16.- The electricity activity- licensing agencies shall have the following obligations and powers:

- 1. To receive, appraise and manage dossiers of application for licenses. To guide organizations and individuals engaged in electricity activities to strictly comply with the contents, order and procedures of application for licenses in this Regulation.
- 2. To grant, supplement or extend electricity activity licenses within the time limits prescribed in Article 19 of this Regulation. In case of refusal to grant licenses, they must notify the reasons therefor and return the dossiers to the organizations or individuals that apply for the granting, supplementation or extension of licenses.
- 3. To settle complaints about electricity activity licenses according to their competence.
- 4. To inspect the use of licenses and the observance of registered conditions in the dossiers of application for electricity activity licenses.
- 5. To impose warning on, suspend activities or withdraw electricity activity licenses of violating organizations or individuals.
- 6. To propose competent agencies to handle violating organizations and individuals according to the regulations in Article 22 of this Regulation.

Article 17.- Organizations and individuals, that are granted electricity activity licenses shall have the following obligations and powers:

- 1. To conduct electricity activities strictly according to the contents prescribed in their licenses.
- 2. To request extension of, addition of scope and contents to, electricity activity licenses when all conditions are met.
- 3. To maintain the registered electricity activity conditions throughout the operation duration.
- 4. To report to the licensing agencies on cessation of electricity activities at least 60 days in advance.
- 5. Not to modify contents of, transfer or lend their licenses to other organizations or individuals.
- 6. To submit to the examination and inspection by and abide by the handling decisions of competent State bodies regarding the use of licenses and the registered operation conditions..
- 7. To request additions upon changes in the scope and contents of electricity activities.
- 8. To report to the licensing agencies on their activities in their licensed domains, on their difficulties as well as recommendations, before December 15 every year.

Article 18.- A dossier of application for an electricity activity license shall include:

1. For consultancy organizations:

- a) The application for electricity activity license;

- b) The valid copy of the consultancy business registration, enclosed with the organizational diagram, lists of attached units and branches.
- c) The extracted list of managerial cadres, consultants taking charge of major consultancy domains, enclosed with the valid copies of their graduation diplomas.
- d) The list of similar projects which the organizations provided consultancy on or the key specialists of the consultancy organizations took charge, participated in the latest five years.
- e) The list of equipment, means and applied software in service of the consultancy work.
- f) The financial reports of the latest three years (for operating organizations).

2. For organizations engaged in electricity production, transmission, distribution and trading:

- a) The application for electricity activity license;
- b) The valid copy of business registration, enclosed with the organizational diagram and the lists of attached units and branches.
- c) The extracted list of managerial officials such as director, deputy-directors of the enterprise, key specialists in the domains where the electricity activity license is applied for; manager, deputy-manager and technicians of electricity business cooperatives, enclosed with the valid copies of their graduation diplomas or certificates.
- d) The list of key electricity construction items being operated by the managing agency or to be received under the decisions of competent authorities.
- e) The financial report in the latest year preceding the submission of application for the license (for operating organizations).
- f) The valid copy of the written certification of satisfaction of conditions for equipment which strictly require the labor safety.
- g) For organizations newly set up to manage electricity projects going to be commissioned, the following documents are required:
 - The valid copies of the decisions approving the technical designs of the electricity projects by competent authorities;
 - The valid copies of the record on pre-acceptance test and acceptance of electricity projects before they are put into operation.
- h) The valid copy of the written certification of satisfaction of fire-fighting conditions by competent authority.

Article 19.- The electricity activity-licensing order and procedures shall be as follows:

1. Organizations and individuals applying for electricity activity licenses shall file at the licensing agencies three sets of dossiers prescribed in Article 18 of this Regulation and take responsibility for the accuracy and truthfulness of the dossiers of application for the licenses.
2. The licensing agencies shall have to examine the dossiers, issue written appointments for the granting of licenses if the dossiers are valid. If the dossiers are not yet valid, the licensing agencies shall have to guide the applying organizations and individuals to make supplements thereto.
3. Within thirty days after fully receiving the valid dossiers, the licensing agencies shall have to conduct the appraisal of the dossiers, the inspection at the establishments (if necessary) and grant the licenses.
4. An electricity activity license is issued in three original copies, of which one shall be handed to the grantee and two other shall be kept at the licensing agency.

Article 20.- Organizations and individuals, that are licensed for electricity activities, shall have to pay the licensing fees to the licensing agencies as provided for by the Ministry of Finance.

The licensing agencies are allowed to use part of the licensing fees for the work of appraisal and management of the licensing dossiers, inspect and handle violations. The collection, payment and use of licensing fees shall comply with the regulations of the Ministry of Finance.

Chapter IV

EXAMINATION, INSPECTION AND HANDLING OF VIOLATIONS

Article 21.-

1. The electricity activity-licensing agencies shall have to examine the use of granted electricity activity licenses; if detecting any violations, they must make records of and handle the violations according to their jurisdiction or propose competent bodies to handle them according to the provisions of law.
2. The Ministry of Industry shall examine and inspect the observance of this regulation nationwide; settle problems and amend or supplement this regulation when necessary.
3. The provincial People's Committees shall examine and inspect the implementation of this regulation within the scope of their respective administrative management; settle problems and propose the Ministry of Industry to study amendments and supplements when necessary.

Article 22.-

1. The following acts shall be regarded as violations of the regulations on the use of electricity activity licenses:
 - a) Conducting electricity activities in contravention of the contents inscribed in the licenses (for electricity activities requiring licenses).
 - b) Failing to maintain the already registered electricity activity conditions.
 - c) Stopping electricity activities for more than three months without reporting such to the licensing agencies.
 - d) Conducting electricity activities after the competent State bodies have announced the cessation of activities, dissolution or bankruptcy.

2. Depending on the seriousness of their violations, the licensed organizations and individuals may be handled in one of the following forms: warning, suspension of electricity activities or withdrawal of electricity activity licenses or be notified to the concerned agencies for handling according to law provisions.

3. Persons competent to license the electricity activities, if violating this Regulation or the relevant current law provisions, shall, depending on the seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability; if causing material damage, they must pay the compensation therefor according to law provisions.

Chapter V

IMPLEMENTATION ORGANIZATION

Article 23.-

1. Within one year as from the date this Regulation takes effect, the organizations and individuals, that are conducting electricity activities in the domains requiring licenses as prescribed in Article 2 of this Regulation, if wishing to continue their activities, shall have to apply for the electricity activity licenses and file their dossiers of registration at the licensing agencies. Pending the license granting, such organizations and individuals shall still continue their activities till the licensing agencies issue written documents granting or refusing to grant the electricity activity licenses.

2. Within two years as from the date this Regulation takes effect, the rural electricity management agencies which fail to satisfy the requirements prescribed in Chapter II of this Regulation and wish to continue their rural electricity business, shall have to transform and re-establish themselves in one of the forms prescribed at Points a, b, c, d and e of Clause 1, Article 8 of this Regulation. The provincial People's Committees shall direct the provincial Industry Services to coordinate with the provincial electricity authorities in guiding and inspecting the implementation thereof. Within six months before the expiry of the transformation time limit, if any organizations fail to make the transformation, the provincial Industry Services shall propose the provincial People's Committees to assign other organizations in the replacement thereof.

Article 24.-

1. The Planning and Investment Department of the Ministry of Industry shall act as the sponsoring body for clearing all procedures for granting, extension or withdrawal of electricity activity licenses which are granted by the Ministry of Industry.

2. The provincial/municipal Industry Services shall act as the sponsoring bodies for clearing all procedures for granting, extension and withdrawal of the electricity activity licenses which are granted by the provincial-level People's Committees.

3. Within seven days as from the date of granting electricity activity licenses to organizations and/or individuals, the Ministry of Industry shall send the copies thereof to the provincial/municipal Industry Services of the localities where such organizations and/or individuals are headquartered. Within seven days as from the date of granting electricity activity to organizations, individuals, the provincial/municipal Industry Services shall send the copies thereof to the Ministry of Industry.

4. Annually before November 30, the provincial/municipal Industry Services shall report to the Ministry of Industry on the situation of granting, extension and withdrawal of electricity activity licenses in their respective localities.

For the Minister of Industry
Vice Minister
HOANG TRUNG HAI

Appendix 3

ELECTRICITY ACTIVITY LICENSE VALIDITY DURATION

(attached to Decision No. 27/2002/QĐ-BCN of June 18, 2002)

Ordinal number	Electricity activity domains and scope	License duration validity	Note
1	Planning consultancy:		
	a) National electricity development planning	Indefinite	In case of reorganization, examination shall be conducted to withdraw, extend or grant new licenses
	b) Provincial/municipal	Indefinite	ditto

	electricity development planning		
	c) Hydro-electric ladder planning	Indefinite	ditto
2	Electric construction investment consultancy:		
	2.1. Consultancy on investment in construction of power plants (consultancy on one or many professional domains)	10 years	ditto
	2.2. Consultancy on investment in construction of power lines and transformer stations (consultancy on one or many professional domains) with different voltages		ditto
	a) Up to 500 kV	10 years	ditto
	b) Up to 220 kV	10 years	ditto
	c) Up to 110 kV	10 years	ditto
	d) Up to 35 kV	5 years	ditto
3	Consultancy on supervision of electric project construction:		
	3.1. Power plants	10 years	ditto
	3.2. Power lines and transformer stations with different voltages	10 years	ditto
4	Electricity production:		
	a) Management and operation of hydro-electric, thermo- electric (coal-, oil- or gas- fuelled) power plants with	20 years	ditto

	installed capacity of over 10 MW		
	b) Management and operation of hydro-electric, thermo-electric (coal-, oil- or gas-fuelled) power plants with installed capacity of between 50 kW and 10,000 kW	10 years	ditto
5	Electricity transmission:		
	a) Management and operation of power transmission systems of up to 500 kV	Indefinite	ditto
	b) Management and operation of power transmission systems of up to 220 kV	20 years	ditto
	c) Management and operation of power transmission systems of up to 110 kV	20 years	ditto
6	Electricity distribution and trading:		
	a) Management and operation of power distribution networks and power trading in many provinces/cities	10 years	ditto
	b) Management and operation of power distribution networks and power trading in one province/city	10 years	ditto
	c) Management and operation of low-voltage electricity networks and rural electricity trading (electricity distribution and trading cooperatives)	5 years	ditto
	d) Management and operation of low-voltage electricity networks and rural electricity trading (individual with trading registration)	5 years	ditto

THE MINISTRY OF CONSTRUCTION

Hoang Trung Hai