

Standard Conditions of Direct Contract On Selling the Balance Electricity

Tbilisi

October 29, 2010

Preamble

Standard Conditions on selling Balance Electricity (hereinafter referred as “Standard Conditions”) have been prepared based on the Civil Code of Georgia and the requirements of “Electricity (Capacity) Market Rules” (Articles #13 and #14), approved by “The Law on Electricity and Natural Gas” (Article 22¹) and the Order #77 of Georgian Minister of Energy (dated August 30, 2006).

Article 1. General Provisions

- 1.1** Standard Conditions herein represent the contract terms (sample contract form) worded in advance and intended for multiple use, composed by one party – Ltd “Electricity System Commercial Operator” (hereinafter referred as “System Commercial Operator”, registered on August 7, 2009 by Tbilisi Tax Inspection, Register #205170036, represented by its General Director Irina Milorava) for the qualified enterprise (hereinafter referred as the Enterprise) and transmission/dispatch licensees that are authorized to take part in the wholesale trade of electricity, based on the Law of Georgia on “Electricity and Natural Gas” and “The Electricity (Capacity) Market Rules” (hereinafter referred as “the Market Rules”) in the part of buying the electricity for the purpose of covering losses and providing for the electricity (capacity) transit;
- 1.2** The Enterprise can be connected to the Standard Conditions in compliance with the Article 4 of these Conditions;
- 1.3** Standard Conditions regulate the terms and rules of Balance Electricity purchase by the Enterprise from the Commercial Operator as well as other issues connected with these legal relations;
- 1.4** Standard Conditions are completing the regulations established by the legislation in force (including the Market Rules). The active legislation regulates the issues not considered by Standard Conditions.

Article 2. Definition of the Terms

2.1 Main terms used in Standard Conditions have the same meaning as considered by the Law of Georgia on “Electricity and Natural Gas” and corresponding subordinate legislation issued (adopted) by the Ministry of Energy of Georgia and National Water and Energy Regulatory Commission.

Article 3. Subject of Standard Conditions

- 3.1** Subject of Standard Conditions is selling the Balance Electricity;
- 3.2** The Enterprise buys from the Commercial Operator the electricity, which equals to the difference between the volumes of electricity to be purchased (including the actual average losses) by it during the calculation period and the electricity bought based on the direct contracts;

3.3 According to the Standard Conditions, Commercial Operator sells and the Enterprise buys the electricity aimed at meeting the actual needs and provides for full and timely compensation of its cost according to the rules and conditions established by the Standard Condition.

Article 4. Being Connected to the Standard Conditions

4.1 The Enterprise will be considered as the contract party if:

4.1.1. It represents the distribution licensee, direct customer (including the electricity generator that buys the balance electricity for general consumption of the plant), exporter, transmission and dispatch licensee (in the part of electricity purchase for covering the losses to provide for the electricity (capacity) transit);

4.1.2. It has received the Balance Electricity at the delivery points during the calculation period for covering the losses to provide for the direct consumption (in case of the electricity generator – for guaranteeing general consumption of the plant), export or transit of electricity (capacity).

4.2 From the moment of connection with the Standard Conditions, the Enterprise becomes the entity with the rights and obligations considered by these Conditions.

Article 5. Balance Electricity Volume, Value and Cost

5.1 System Commercial Operator determines the volume and value of Balance Electricity in compliance with the Market Rules;

5.2 Pricing of Balance Electricity is taking place in compliance with the Market Rules.

Article 6. Settlement

6.1 The volume of Balancing Electricity sold to the Enterprise is reflected in the receipt-delivery act signed between the System Commercial Operator and the Enterprise. In addition, if the amendments connected with the electricity generated, delivered and consumed (according to the Market Rules) introduced to the receipt-delivery acts is resulted in making corrections to the volume of Balance Electricity, the corrected receipt-delivery act shall be drawn;

6.2 System Commercial Operator submits to the Enterprise four properly composed and approved acts of electricity receipt and delivery within 12 calendar days. The Enterprise is obliged to return two acts to the System Commercial Operator within two calendar days;

6.3 Based on the data provided in the receipt-delivery act, the System Commercial Operator issues appropriate settlement documentation (invoice) on the cost of Balance Electricity and submit it to the Enterprise. Respective Tax Legislation regulates the conditions and rule of submitting the invoice;

6.4 The Enterprise is obliged to compensate (via bank transfer) to the System Commercial Operator directly the amount indicated in the settlement documentation not later than 25 calendar days after the end of calculation period. This liability shall be considered fulfilled on the date, when total cost of Balance Electricity is received on the account of System Commercial Operator. Regardless, the Enterprise agrees with the electricity receipt-delivery act and/or settlement documentation or not, the Enterprise shall transfer the amount indicated in the settlement documentation to the account of System Commercial Operator. Non-payment of the amount due to the reason above is basis for imposing the penalties considered by the Standard Conditions and Market Rules;

6.5 As a rule, settlement between the parties is taking place via bank transfer, unless the written request of System Commercial Operator on applying other recognized rule;

6.6 If the cost of Balance Electricity is not covered or partly covered within the duration defined by Standard Conditions, the penalty (0,075% of unpaid amount) shall be imposed per each delayed day since the determined date of payment. This penalty shall be billed after the 26th day from the end of calculation period. Billing of this penalty shall stop on the next day (excluding

the payment for that day) after the unpaid amount is transferred to the System Commercial Operator's account;

6.7 If the amendments introduced to the receipt-delivery acts of electricity (generated, delivered and consumed according to the Market Rules) are resulted in correction of the cost of Balance Electricity and as a result, the cost of Balance Electricity increases, the Enterprise is obliged to compensate to the System Commercial Operator the amount indicated in correcting settlement documentation (invoice), not later than 25th calendar day, after the end of the month, when the correcting settlement documentation (invoice) was issued. In the event that the Enterprise fails to pay or partly pays, the amount indicated in correcting settlement documentation (invoice), the penalty (0,075% of unpaid amount) shall be imposed per each delayed day since the determined date, when the correcting settlement documentation (invoice) was issued. This penalty shall be billed after the 26th day from the end of the month, when the correcting settlement documentation (invoice) was issued. Billing of this penalty shall stop on the next day (excluding the payment for that day) after the unpaid amount is transferred to the System Commercial Operator's account;

6.8 The fine is billed right at the end of settlement period. System Commercial Operator sends a letter about it (along with the attached calculations) to the Enterprise. The Enterprise receives the liability of paying the fine upon the receipt of written notification;

6.9 Based on the Standard Conditions, the amount payable by the Enterprise is not subject to the offset with the counter claims or writing off without the consent of the System Commercial Operator written in advance. Transfer of the liability of the Enterprise on compensating the amount (based on the Standard Conditions) to the other (third) person is not allowed without the consent of the System Commercial Operator written in advance;

6.10 According to the Standard Conditions, System Commercial Operator is entitled to take the actions allowed by the legislation in the event of non-payment, partial payment and/or delay of payment of any fee or interest, connected with the cost of Balance Electricity, which includes but is not limited to the System Commercial Operator's right on restricting or terminating the electricity delivery to the Enterprise according to the rule established by the active legislation.

Article 7. Payment Guarantee

7.1 System Commercial Operator is entitled to claim (in a written form) the bank guarantee on the payments due by the time of this claim as well as the amounts expected during the calculation period(s) from the Enterprise, which has violated the obligation imposed by the Articles 6.4 and 6.7 of Standard Conditions. The amount insured by the bank guarantee shall not be less than the amount not paid in compliance with the Articles 6.4 and 6.7.

7.2 Failure of the Enterprise to present the bank guarantee may become the subject to taking measures included in the Article 6.10 of Standard Conditions herein. The System Commercial Operator sends the notification about terminating or limiting the electricity (capacity) supply to the Electricity Dispatch Licensee in compliance with the Market Rules.

Article 8. Force Majeur

8.1 In Standard Conditions herein, Force Majeur and Force Majeur occurrence for any of the Parties means: the circumstances, which cannot be controlled by mentioned Party; when they cannot be avoided, stopped or improved, despite all the efforts of such Party; when as a consequence or as a result, one of the Parties cannot fulfill the obligations imposed by Standard Conditions. The Force Majeur occurrence includes (but is not limited to):

8.1.1 The war, military actions, siege, mobilization, requisition or embargo;

8.1.2 Unrest, revolution, rebellion, civil war, public disorder, civil riot, sabotage and terrorist actions;

8.1.3 Lightning, conflagration, explosion, storm, wind, flood, earthquake, hurricane or other natural disasters.

8.2 None of the Parties is requested to fulfill the Contract and it will not be considered as non-fulfillment of their obligations, if the reason for non-fulfillment is Force Majeur, if lack of funds by any of the Parties is not considered as the Force Majeur.

8.3 The Parties shall be released from full or partial fulfillment of contract obligations considered by Standard Conditions only, when the circumstances indicated in Paragraph 8.1 occur. Under such circumstances, deadline for the fulfillment of contracted obligations will be rescheduled by the length of Force Majeur period.

8.4 In Force Majeur situation, the Party directly affected by it shall send another Party written notification about the occurrence within five workdays. This notification shall include relevant facts, information, possible consequences and duration. The document (the statement issued by the Chamber of Trade and Industry of Georgia), justifying Force Majeur occurrence shall be presented within the following one month.

Article 9. Dispute Resolution

9.1 The Commercial Operator and the Enterprise shall take all possible actions to settle any dispute or disagreement occurred in relation with the Standard Conditions (the definition, use and/or fulfillment) herein.

9.2 If the Parties fail to reach common agreement, the subject of argument shall be submitted to the Georgian National Energy Regulatory Commission or the court within the jurisdiction of Georgia.

Article 10. Other Conditions

10.1 If one of Standard Conditions' provision or its part (or use of this provision or its part towards one of the Parties) is illegal or impossible to fulfill, all remaining provisions of Standard Conditions will be considered effective and sustainable and they will remain in force as far as possible, whereas useless and unsustainable provisions shall be separated from the Standard Conditions, so that the legality and fulfillment possibility of others will be retained.

10.2 The terms included in Standard Conditions herein are obligatory for the Parties, their legatees and assignee. Entrustment of obligations imposed by Standard Conditions herein to the other Party, without written consent of the second Party is unacceptable.

10.3 Standard Conditions herein are regulated and defined by the Legislation of Georgian

10.4 Tbilisi is the location of the Contract fulfillment.

10.5 Standard Conditions come into effect from December 1, 2010. It is valid indefinitely.

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