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Electricity Market Act¹

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RT I 2003, 25, 153
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Amended by the following acts

Passed	Published	Entry into force
10.03.2004	RT I 2004, 18, 131	15.04.2004
14.04.2004	RT I 2004, 30, 208	01.05.2004
08.12.2004	RT I 2004, 86, 583	01.01.2005, partially 01.05.2005
07.12.2006	RT I 2006, 58, 439	01.01.2007
15.02.2007	RT I 2007, 23, 120	01.05.2007, partially 01.01.2009 and 01.01.2010
22.11.2007	RT I 2007, 66, 408	01.01.2008
12.11.2008	RT I 2008, 51, 282	19.12.2008
17.12.2008	RT I 2009, 5, 34	22.01.2009
18.06.2009	RT I 2009, 35, 232	06.07.2009, partially 01.07.2014
15.06.2009	RT I 2009, 39, 262	24.07.2009
26.11.2009	RT I 2009, 62, 405	01.01.2010
27.01.2010	RT I 2010, 8, 37	27.02.2010
28.01.2010	RT I 2010, 8, 40	27.02.2010, partially 01.04.2010, 01.07.2010 and 03.03.2011
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the day determined by the decision of the Council of the European Union concerning repeal of the derogation established in respect of the Republic of Estonia on the basis of Article 140 (2) of the Treaty on the Functioning of the European Union, Decision No. 2010/416/EU of the Council of the European Union (OJ L 196, 28.07.2010, pp. 24–26).
10.06.2010	RT I 2010, 41, 241	01.08.2010
03.08.2010	RT I 2010, 56, 363	01.11.2010
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date of entry into force amended to 01.07.2014 [RT I, 22.12.2013, 1]
23.11.2011	RT I, 12.12.2011, 2	01.01.2012 and 01.01.2014; date of entry into force partially amended to 01.07.2014 [RT I, 22.12.2013, 1]
06.06.2012	RT I, 28.06.2012, 1	08.07.2012, partially 01.07.2012, 01.01.2013, 01.03.2013 and 01.01.2014; date of entry into force partially amended to 01.07.2014 [RT I, 22.12.2013, 1]
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 2	23.03.2014
19.02.2014	RT I, 13.03.2014, 3	01.01.2018, partially 23.03.2014

19.02.2014	RT I, 13.03.2014, 4	01.07.2014
17.04.2014	RT I, 06.05.2014, 2	07.05.2014, partially 01.07.2014 and 01.01.2015
05.06.2014	RT I, 29.06.2014, 1	01.07.2014
01.07.2014	RT I, 12.07.2014, 3	22.07.2014, partially 01.07.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, official titles of ministers replaced on the basis of section 107 ³ (4) of the Government of the Republic Act
18.02.2015	RT I, 23.03.2015, 3	01.07.2015
18.02.2015	RT I, 23.03.2015, 4	01.07.2015
11.06.2015	RT I, 30.06.2015, 4	01.09.2015, partially 01.07.2015
16.06.2016	RT I, 05.07.2016, 3	15.07.2016, partially 01.01.2017
15.06.2016	RT I, 05.07.2016, 1	01.01.2017
27.10.2016	RT I, 10.11.2016, 1	01.01.2017
18.01.2017	RT I, 25.01.2017, 1	01.03.2017
08.02.2017	RT I, 03.03.2017, 1	01.07.2017
14.06.2017	RT I, 30.06.2017, 2	01.07.2017, partially 10.07.2017
06.06.2018	RT I, 29.06.2018, 1	01.07.2018
06.06.2018	RT I, 29.06.2018, 2	09.07.2018, partially 01.01.2019 and 27.04.2019
21.11.2018	RT I, 12.12.2018, 3	01.01.2019
30.01.2019	RT I, 22.02.2019, 1	01.10.2019
20.02.2019	RT I, 13.03.2019, 2	15.03.2019

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of this Act

(1) This Act governs the generation, transmission, sale, export, import and transit of electricity and the economic and technical management of the power system. This Act prescribes the principles of the operation of the electricity market, based on the need to ensure an effective supply of electricity which is provided at a reasonable price and which meets environmental requirements and the needs of consumers, and the utilisation of energy sources in a balanced manner, in an environmentally clean way and with a long-term perspective.

(2) The activities specified in subsection 1 of this section shall be carried out in compliance with the principles of cooperation, equal treatment and transparency.

(3) Electricity undertakings shall facilitate activities performed by consumers for the purpose of conserving electricity.

(4) The provisions of the Administrative Procedure Act apply to administrative proceedings provided in this Act without prejudice to the rules specific to this Act.

(5) This Act, with the exception of sections 58–59⁶, 92⁵, 108, 108¹ and subsection 3 of section 111³, does not apply to power stations that are not connected to the network.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 2. Planning for development of electricity sector

[Repealed – RT I, 13.03.2014, 2 – entry into force 23.03.2014]

§ 3. Terms

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

The terms in this Act are defined as follows:

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

1) ‘emergency reserve power station’ means a power station where electricity is generated in the case of an unexpected shutdown of a production capacity or net capacity of the system or of an electricity system of another country which is electrically connected to the system or in the event of a threat to the security of supply of the system;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

1¹) ‘open supply’ means the sale to a market participant of the total amount of electricity needed by the market participant or, in order to ensure the balance of a market participant, the sale to the market participant of an

amount of electricity that the participant lacks in a trading period or the purchase from the market participant of surplus amount of electricity during a trading period;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

2) ‘balancing electricity’ means electricity which, for the purposes of maintaining a balance, is purchased and sold by the system operator on the basis of a balance agreement entered into with a balance provider;

3) ‘balance’ means equivalence between the amount of electricity purchased and/or supplied to the network by a market participant during a trading period and the amount of electricity sold and/or acquired from the network by the market participant during the trading period;

4) ‘balance settlement’ means determination of the balance in a manner which permits, during every trading period, to draw up a balance for a market participant, to ascertain the amount of open supply and, in the case of deviations from the balance, to draw up a corresponding report;

5) ‘balance responsibility’ means the obligation of a market participant to ensure that the amount of electricity purchased and/or supplied to the network by the market participant during a trading period is equivalent to the amount of electricity sold and/or acquired from the network by the market participant during the trading period;

6) ‘balance agreement’ means an open supply contract between the system operator and a balance provider by which the system operator undertakes to sell to or purchase from the balance provider the amount of balancing electricity necessary to maintain its balance during each trading period;

7) ‘transmission’ means the transport of electricity in the network;

7 1) ‘power exchange’ means an organized market for trade in electricity to be supplied on the same or next day or within the hour;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

8) ‘power station’ means an operational assembly consisting of one or several generating installations which generates electricity, together with auxiliary equipment and civil engineering works;

[RT I 2007, 23, 120 – entry into force 01.05.2007]

8¹) ‘power plant own consumption’ means electricity which is required for the smooth operation of the power plant and of the facilities and equipment attached thereto, including the electrical and lighting systems, control, safety and monitoring systems, accumulation devices, emergency sources of power, pumps, ventilators, conveyors, electric motors of fuel loading and preparation equipment and electric heating systems;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

9) ‘electrical installation’ means an operational assembly of equipment, conductors and accessories used to generate, transmit, transform, meter, sell or consume electricity;

9¹) ‘import’ means the import of electricity from outside the European Economic Area or Swiss Confederation with the aim of selling or consuming electricity in Estonia;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

9²) ‘investment support’ means monetary assistance granted to cover the expenditures related to the building or reconstruction of a generating installation or part of such installation;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

10) ‘distribution’ means the transmission of electricity via a distribution network;

11) ‘distribution network’ means a network which is not the transmission network;

12) ‘remote reading device’ means a metering device which records data regarding amounts of electricity by trading period and allows automatic transmission of such data without the need to physically access the metering device;

13) ‘trading period’ means the period of time which is set out in the network code on the functioning of the electricity market and during which a market participant is required to maintain its balance;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

14) ‘line’ means a part of a network that links specific points in the network;

15) ‘connection point’ means a specific, defined point where an electrical installation of a market participant and the network connect;

15¹) ‘metering point’ means a location where electricity passing through an electrical installation is measured;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

16) ‘metering device’ means an electricity meter together with instrument transformers and tariff switching devices;

17) ‘fixed supply’ means the sale to a market participant of a fixed amount of electricity which is agreed upon in advance for a trading period and of which the balance provider is informed in advance in accordance with the rules established in this Act and in the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

18) ‘sale’ means the transfer of electricity to another person for a charge or without charge;

19) ‘net capacity’ means the maximum capacity that can be supplied to the network by a generating installation;

19¹) ‘availability of net capacity’ means the ability to supply net capacity to the network within 24 hours from the moment the corresponding order is issued by the system operator;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

20) ‘direct line’ means a line which is located in the service area of a network operator and which lacks a direct connection to the network, except for a closed distribution network, but which may be indirectly connected to the network through an electrical installation of a market participant and which serves to transmit electricity from a power station to another power station or to another market participant for its own consumption, resale or transmission;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

21) ‘transmission network’ means a national network with a voltage of at least 110 kV together with connections that have a voltage of over 10 kV with networks of other countries and together with other electrical installations, including those operating on medium voltage, which are necessary to ensure the functioning, administration and development of the system as a whole and together with control, protection and communication systems which form a single economic entity;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

22) ‘regulating capacity’ means the capacity purchased under contracts entered into by the system operator, which the latter uses to increase or reduce generation and consumption in accordance with this Act and the legislation established on the basis thereof and in accordance with contracts made by the system operator;

22¹) ‘residual mix’ means a set of attributes that characterize the origin of the supplied electricity and that has not been used for disclosure to the consumer of the origin of the supply or that has been arrived at by means of a calculation;

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

22²) ‘closed distribution network’ means a network which is used to transmit electricity within limited production locations, commercial-purpose civil engineering works or joint services locations to commercial consumers that are located there and whose activities or production processes are interconnected for technical or safety-related reasons, or which is used to transmit electricity chiefly to the owner of the network or to the network operator who operates the network, or to any undertakings that are connected to the owner or network operator by means of control;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

23) ‘system’ means a technical system for the generation and transmission of electricity, which is composed of power stations located in the territory of Estonia, of the network which connects the power stations to one another as well as consumers and the power systems of other countries, and the corresponding control, protection and communication systems;

23¹) ‘place of consumption’ means a connection point of an electrical installation of a market participant, or a number of connection points which are connected to each other through an electrical installation of a market participant;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

23²) ‘balancing’ means the processes and actions described in clause 1 of Article 2 of Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing (OJ L 312, 28.11.2017, pp 6–53);

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

24) ‘generation’ means the production of electricity. For the purposes of this Act, generation does not include the generation of electricity by a generating installation which has a total net capacity not exceeding 100 kW and which is not connected to the system;

24¹) [repealed – RT I, 28.06.2012, 1 – entry into force 08.07.2012]

25) ‘generating installation’ means an electrical installation intended for the generation of electricity;

26) ‘transit’ means the transmission of electricity under a contract whereby the parties to the contract do not consume or generate transmitted electricity in Estonia;

26¹) [repealed – RT I, 05.07.2016, 3 – entry into force 01.01.2017]

27) ‘control’ means control of an undertaking as defined in the Competition Act;

28) ‘security of supply’ means the capability of the system to ensure that consumers are supplied with electricity in accordance with the requirements;

28¹) ‘liquid biofuel’ means liquid fuel derived from biomass and used for the generation of electricity;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

28²) vertically integrated undertaking is an electricity undertaking which is or electricity undertakings which are controlled within the meaning of the Competition Act by one person or several persons and at least one of the tasks of which is transmission of electricity, while the other tasks include the generation or sale of electricity;

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

29) ‘network’ means an electrical installation or a part thereof designed to convey electricity to the connection point of a consumer or a producer;

30) ‘grid code’ means the legislation specified in section 42 of this Act;

31) ‘network service’ means a service specified in section 65(1) of this Act;

32) ‘network connection’ means an electrical connection between the network and another electrical installation;

33) ‘connection to the network’ means the establishment of a new network connection, or the modification of the conditions of consumption or any other technical conditions or an increase in the security of supply of an existing network connection;

34) ‘use of a network connection’ means the use of network services via a network connection;

35) ‘transmission’ means the conveying of electricity via the transmission network;

36) ‘micro isolated network’ means a network which is located in the service area of a distribution network operator, which belongs to that operator, which does not have an electrical connection to the system and in which consumption in 1996 was less than 1 gigawatt-hour (hereinafter, ‘GWh’).

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 4. Maintaining security of supply

(1) The Government of the Republic may implement measures with regard to all market participants to maintain the security of supply during a definite period of time if any of the following becomes evident:

1) a factor endangering security of supply;

- 2) scarcity of primary energy sources;
- 3) danger to the life or health of persons or to the preservation of the network or any other electrical installation.

(2) The measures specified in subsection 1 of this section may be implemented without observing the provisions of Chapters 3-7 of this Act if this is vital for ensuring the security of supply.

(3) In the case specified in subsection 1 of this section, the Government of the Republic shall establish the grounds for the calculation of expenses incurred as a result of implementing the measures, as well as the list of persons who are required to pay compensation for such expenses and of persons who are entitled to compensation, and the extent of and procedure for the compensation of expenses.

(4) In the case specified in subsection 1 of this section, the following measures may be applied:

- 1) [repealed – RT I, 28.06.2012, 1 – entry into force 08.07.2012]
- 2) imposition of an obligation to procure and store reserves of primary energy sources required for generation;
- 3) suspension or restriction of the rights granted by this Act to producers or any other market participant;
- 4) limitation or interruption of the supply of electricity to particular market participants;
- 5) restriction or modification of the obligation to provide network services.

(4¹) The Competition Authority may require the system operator to call for tenders for the creation of new production capacities, energy storage devices or demand-side management measures which promote energy efficiency if, on the basis of the report described in subsection 7 of section 39 of this Act, the capacity reserve of generating installations of the system falls below the capacity reserve which is provided in the network code on the functioning of the electricity system and which is required in order to satisfy the demand for consumption, or if this is necessary for the promotion, for the purpose of environmental protection, of new technologies.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4²) When organizing a competition specified in subsection 4¹ of this section, the system operator shall observe the following requirements:

- 1) a detailed and non-discriminating plan for financing of the construction of the generating installation must be presented in the terms and conditions of the competition;
- 2) the terms and conditions of the competition must be published in Estonian and in English on the website of the system operator;
- 3) the terms and conditions of the competition must contain a detailed description of the contract terms and of the procedure to be followed by all tenderers and an exhaustive list of criteria governing the selection of tenders and the award of the contract, including incentives which are covered by the tender;
- 4) existing producers whose electricity supply offers have a long term guarantee may also participate in the competition;
- 5) details of the competition shall be published in the Official Journal of the European Union at least six months prior to the closing date for tenders;
- 6) confidentiality of the information contained in the tenders must be ensured.

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(5) The Government of the Republic shall promptly notify the European Commission and other member states of the European Union of any measures implemented under this section.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

Chapter 2

MARKET PARTICIPANTS

Division 1

Types of market participants

§ 5. Market participants

Market participants are electricity undertakings, consumers, balance providers and power exchange operators.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

§ 6. Electricity undertakings

Producers, network operators, line possessors and sellers are electricity undertakings.

§ 7. Producer

(1) A producer is an electricity undertaking engaged in the generation of electricity by means of one or several generating installations.

(2) A small producer is a producer the net capacity of whose generating installations which are located in Estonia, together with the net capacity of generating installations located in Estonia and owned by producers belonging to the same group as the producer does not exceed 10 MW.

(3) [repealed – RT I, 05.07.3016. 3 – entry into force 01.01.2017]

§ 8. Network operator

(1) A network operator is an electricity undertaking engaged in the provision of network services through a network.

(2) The transmission network operator is an electricity undertaking engaged in the provision of network services through the transmission network.

(3) A distribution network operator is an electricity undertaking engaged in the provision of network services through a distribution network.

§ 9. Line possessor

A line possessor is an electricity undertaking that conveys electricity via a direct line or a direct current line which crosses the national border.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 10. Seller

The seller is an electricity undertaking engaged in the sale of electricity.

§ 11. Balance provider

The balance provider is a person who, following the procedure provided in this Act and the legislation enacted on its basis, has entered into a balance agreement with a system operator in order to maintain its balance.

§ 11¹. Power exchange operator

A power exchange operator is the nominated electricity market operator designated by the Competition Authority in accordance with paragraph 3 of Article 4 of Commission Regulation (EU) 2015/1222 (OJ L197, 25.07.2015, pp. 24–72).

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 11². Power exchange trader

A power exchange trader is a market participant whom the power exchange operator has authorized to trade on the power exchange by having entered into a corresponding agreement with the trader.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 12. Consumer

(1) A consumer is a person who uses electricity for the person's own purposes.

(1¹) 'Household consumers' means consumers using electricity for their own household consumption, excluding their commercial or professional activities;

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(1²) 'Commercial consumers' means consumers who are not household consumers.

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(1³) 'Small consumers' means household consumers, apartment associations, building associations and such commercial consumers whose electrical installation is connected to the network at low voltage and through a main circuit breaker of up to 63A.

[RT I, 13.03.2014, 3 – entry into force 01.01.2018]

(2) For the purposes of this Act, a person who purchases electricity is deemed to be a consumer only in respect of the electricity that the consumer uses for the consumer's own purposes.

(3) A person who uses electricity generated for the power station's own consumption shall not be considered to be a customer.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 13. [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 14. [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

Division 2

Requirements for electricity undertakings

§ 15. Requirements with respect to form of operation and capital

(1) An electricity undertaking is a legal person registered in the European Economic Area.
[RT I, 30.06.2017, 2 – entry into force 10.07.2017]

(2) The share capital of a network operator or of a line possessor who uses a direct current line which crosses the national border shall be at least 127,800 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) The share capital of a producer or seller shall be at least 31,950 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(4) Subsection 1 of this section shall not apply to a line possessor who uses a direct line.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) Subsections 1 and 3 of this section do not apply to producers and sellers who generate electricity at generating installations which they own and which have a total net capacity of up to 200 kW, and who sell the electricity generated by such installations.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5¹) Subsections 1 and 3 of this section do not apply to the sale of electricity by the consumer, if that electricity has been transmitted to the consumer over a direct line and if that electricity has been produced by a generating installation that has a net capacity of up to 200 kW.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) Subsections 1 and 3 of this section do not apply to:

- 1) a person who, outside its principal activities and within the boundaries of a building or immovable which belongs to or is entirely in the possession of the person, sells and conveys electricity solely to persons who are entitled to use the building or immovable by law, provided that the sale of electricity is not the principal activity of the seller;
- 2) a non-profit organization who sells and conveys electricity to its members solely for the purpose of supplying electricity to the apartments, cottages, garages or private dwelling houses which the members own or occupy.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 16. Unbundling of activities

(1) If this Act does not prohibit an electricity undertaking from operating in several electricity-related or other areas of activity at the same time, the electricity undertaking shall, in order to avoid discrimination, cross-subsidization and distortion of competition, keep accounts of its electricity-related and other areas of activity as well as of the different electricity-related areas of activity listed in section 22(1) of this Act as would be required of separate undertakings operating in those areas of activity.
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(2) The operator of the transmission network or of a distribution network to which more than 100,000 customers are connected may not generate or sell electricity.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(3) It is not contrary to subsection 2 of this section for:

- 1) the transmission network operator to perform the obligations set out in Chapters 3 and 4 of this Act;
 - 1¹) the operator of the transmission network to generate electricity in the emergency reserve power station in the event of an unexpected shutdown of the production capacity or net capacity of the system or of an electricity system of another country electrically connected to the system or in the event of a danger to the security of supply or when it is required for the purpose of periodical testing of the emergency reserve power station;
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]
- 2) a network operator only to generate electricity to compensate for network losses;
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

2¹) a distribution network operator whose service area includes a micro isolated network, to produce or sell electricity to a seller of electricity in the area of the micro isolated network;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

3) other undertakings belonging to the same group as the network operator to operate in other areas of activity.

4) [repealed – RTI 2004, 86, 583 – entry into force 01.01.2005]

5) [repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(4) The transmission network operator may not at the same time be a distribution network operator, or belong to the same group with any undertaking which engages in activities related to generating or selling electricity.

[RT I 2010, 8, 40 – entry into force 01.07.2010]

(4¹) It is not contrary to subsection 1 of this section when the transmission network operator establishes a joint enterprise with an undertaking who owns a transmission network in another member state and acts as the operator of the transmission network, or with an undertaking who is an independent system operator recognized in another member state in accordance with Article 13 of Directive 2009/72/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.08.2009, pp. 55–93) or an independent transmission network operator within the meaning of Chapter V of the same Directive.

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(4²) Where the transmission network operator is split off from a vertically integrated undertaking, the transmission network operator may not convey the business secrets in its possession to an undertaking engaged in production or sale and the employees of the transmission network operator may not, in the course of the split, accept employment positions with an undertaking engaged in production or sale.

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(5) The trade mark of the operator of a distribution network must be clearly distinguishable from that of an undertaking which engages in the generation or sale of electricity and which belongs to the same group as the operator of the distribution network if more than 100,000 customers are connected to the distribution network.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 17. Reporting and auditing

(1) The Government of the Republic is entitled to establish additional, duly substantiated requirements for electricity undertakings regarding their accounts and the disclosure of their reports with a view to ensuring transparent reporting of the revenue and expenditure of electricity-related activities and of transactions between undertakings belonging to the same group.

(2) An electricity undertaking shall include in its annual accounts an explanation of the principles of allocating expenditure among the electricity undertakings belonging to the same group. The principles may be amended by the electricity undertaking only in exceptional cases. Any amendments and the reasons for this shall be set out in the annual accounts.

(3) An electricity undertaking shall present a balance sheet and a profit and loss account for each area of activity as annexes to its annual accounts.

(3¹) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(4) An electricity undertaking shall arrange the auditing of its activities. In the report setting out the auditing results, the auditor shall, in addition to other information, present an opinion on whether the annual accounts of the electricity undertaking and its annexes comply with this Act and the legislation enacted on its basis.

§ 18. Management of distribution network operators

[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(1) A member of the management board of a distribution network operator may not at the same time be a member of the management board of another electricity undertaking connected to the distribution network operator by means of control, or otherwise be in charge of the everyday economic activities of another electricity undertaking which belongs to the same group as the distribution network operator.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) It is not contrary to subsection 1 of this section for a member of the management board of the distribution network operator to be, at the same time, a member of the supervisory board of another electricity undertaking that is connected to the distribution network operator by means of control.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(4) Any remuneration paid or any other benefit provided to a member of the management board of a distribution network operator may not depend on the commercial performance of another electricity undertaking or a person who controls another electricity undertaking.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(5) A distribution network operator must have at its disposal the technical, physical, financial and human resources requisite for the preservation and development of the assets required for the provision of network service. This does not preclude the parent company from carrying out economic and management oversight over the subsidiary, which primarily includes the right to approve the annual financing plan of the distribution network operator and the ceiling limit for the debt of the subsidiary. The parent company may not intervene in the everyday economic activities of the subsidiary or in the decisions concerning the construction or upgrading of the network, provided these decisions do not exceed the limits of the approved financing plan.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) A distribution network operator shall prepare and implement a plan which lays out the measures necessary to ensure equal treatment of other electricity undertakings and consumers and sets out the obligations of the employees of the distribution network operator to implement such measures. The distribution network operator shall submit the plan to the Competition Authority.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(7) The plan mentioned in subsection 6 of this section is drawn up, its implementation is monitored, and the annual report concerning the measures taken to implement the plan is compiled by an employee who is appointed by a member of the management board of the distribution network operator, is directly subordinate to that member, is independent in compiling the report, and has access to the entirety of the data of the distribution network operator, and of any other undertaking belonging to the group of companies to which the distribution network operator belongs, in so far as these data are required for the performance of his or her task.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(8) A distribution network operator shall submit its annual report to the Competition Authority and inform the Competition Authority of the availability of the report on its website.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

§ 18¹. Management of transmission network operator and of line possessor using a direct current line that crosses the national border

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1) A person who controls the transmission network operator may not control, or exercise any other rights in respect of, an undertaking which produces or sells gas or electricity. A person who controls an undertaking which produces or sells electricity may not control, or exercise any other rights in respect of, the transmission network operator, or in respect of an undertaking which provides gas transmission services,
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(2) [Repealed – RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(3) The person who appoints members of the supervisory or management board of the transmission network operator or members of a body that legally represents the transmission network operator may not have control over an undertaking which produces or sells gas or electricity or exercise any other rights in respect of that undertaking.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(3¹) The other rights referred to in subsections 1 and 3 of this section include, first and foremost, voting rights, the right to appoint members to the supervisory or management board of the undertaking or to a body that legally represents the undertaking, holding a controlling interest in the undertaking, or using or disposing of property forming a part of the transmission network.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(4) A member of the supervisory or management board of the transmission network operator may not be a member of the supervisory or management board of an undertaking which produces or sells electricity or a member of a body that legally represents such an undertaking.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(5) If the person referred to in subsections 1 and 3 of this section is the government, the transmission network operator may not be controlled by the same government agency that controls an undertaking which produces or sells electricity.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(6) An undertaking engaged in production or sale may not have control over a transmission network operator in a member state of the EU that applies the requirement of the separation of ownership of transmission network operators from undertakings engaged in production and sale.

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(7) Management of the line possessor that uses a direct current line crossing the national border is subject to the requirements established in this section with respect to the transmission network operator.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 19. Notification requirement

(1) A person shall notify the Competition Authority in writing if the person:

[RT I 2007, 66, 408 – entry into force 01.01.2008]

- 1) acquires ownership of a network or a personal right to use a network;
- 2) commences construction of a generating installation with a net capacity of over 1 MW, acquires a generating installation with a net capacity of over 1 MW or obtains direct possession thereof;
- 3) acquires a direct line or a direct current line crossing the national border or a personal right to use one;
- 4) acquires shares in a network operator, a line possessor or a producer who is in possession of generating installations with a net capacity of over 1 MW, as a result of which the person holds at least 50 per cent of the votes represented by shares at the general meeting of shareholders of the company, or if the person acquires control in any other manner of a network operator, line possessor or a producer who is in possession of generating installations with a net capacity of over 1 MW;

(2) The notice specified in subsection 1 of this section shall be transmitted within ten days as of execution of the contract pursuant to which the person acquires the subject matter specified in subsection 1, comes into direct possession thereof or acquires a personal right to use it. If the subject matter specified in subsection 1 is acquired, or if its direct possession or use commences prior to the execution of the contract or without a contract, notice thereof shall be transmitted within ten days as of the acquisition or commencement of direct possession or use. The following information shall be included the notice:

- 1) the location and characterisation of the network, line or generating installation, including the net capacity of and energy sources used by the generating installation;
- 2) the name of the network operator, line possessor or producer specified in clause 4 of subsection 1 of this section and its registration number in the commercial register;
- 3) the name, personal identification code or registration number in the commercial register, and contact details of the person who acquired the network, line or generating installation or of the person who has acquired a personal right to use the same or entered into direct possession of the same or of the person who has acquired control or shares of the same;
- 4) the legal basis for and material circumstances relating to the acquisition of the network, line or generating installation or of acquiring a personal right to use the same or of entry into direct possession of the same, or of the acquisition of control or shares of the same;
- 5) any substantial changes in the forecast of economic activities.

(3) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) The transmission network operator must inform the Competition Authority of every planned transaction which may give rise to the need to review the operator's conformity to the requirements listed in section 18¹ of this Act. The transmission network operator must also immediately inform the Competition Authority of any circumstances under which a citizen of a country other than a member state of the European Union (hereinafter 'third country') or a legal person incorporated and registered in such a country may acquire control of the transmission network operator.

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(5) An electricity undertaking shall submit to the Competition Authority the particulars of the investment projects referred to in clause 3 of the Annex to Regulation (EU) No 256/2014 of the European Parliament and of the Council concerning the notification to the Commission of investment projects in energy infrastructure within the European Union, replacing Council Regulation (EU, Euratom) No 617/2010 and repealing Council Regulation (EC) No 736/96 (OJ L 84, 20.03.2014, pp. 61–68),

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

§ 20. Guarantees of balance provider

(1) The balance provider shall provide the system operator with bank guarantees which meet the requirements set out in the network code on the functioning of the electricity market and which secure unconditional performance of all the obligations of the balance provider in respect of the system operator. Such guarantees are permanent guarantees and variable guarantees.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) The balance provider shall provide a permanent guarantee in the amount prescribed in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(3) The balance provider shall provide a variable guarantee in the amount equal to the amount payable for the balancing electricity purchased by the balance provider over a period of time equal to one and a half times the period which is provided in the network code on the functioning of the electricity market as the base period for money transactions related to the balance (hereinafter, 'transaction period') and which precedes the provision of the variable guarantee or decision on amending the guarantee, less the amount payable for balancing electricity purchased from the balance provider over the same period of time.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4) If it is not possible to determine the amount of a variable guarantee in the manner specified in subsection 3 of this section, the system operator shall determine the amount of the variable guarantee on the basis of the amount payable for the balancing electricity likely to be purchased by the balance provider over a period of time equal to one and half times the transaction period, less the amount payable for the balancing electricity likely to be purchased from the balance provider over the same period of time, and taking into account the economic reliability of the balance provider.

(5) The system operator shall determine the amount of the variable guarantee to be provided by the balance provider and, if necessary, modify that amount following the provisions of subsections 2–4 and 6 of this section.

(6) At the request of the balance provider, the system operator shall reduce the amount of the variable guarantee if the amount to be determined pursuant to subsection 3 or 4 of this section would, at the moment of reduction, be significantly lower than the amount last determined as the amount of the variable guarantee of the balance provider. The system operator shall increase the amount of the variable guarantee if the amount to be determined pursuant to subsection 3 or 4 of this section would, at the moment of increase, be significantly greater than the amount last determined as the amount of such guarantee for the balance provider.

(7) The balance provider shall maintain any permanent or variable guarantee as valid for the amount prescribed in the network code on the functioning of the electricity market or determined by the system operator in accordance with this Act.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(8) Detailed requirements for the provision of permanent and variable guarantees and for the determination of and making changes to the guarantee amounts shall be prescribed in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 21. Other requirements for balance providers

(1) A balance provider must have means of communication which meet the requirements established in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) A balance provider shall enter into a balance agreement with a system operator.

§ 21¹. Provider of a service of vital importance

For the purposes of clause 1 of subsection 1 of section 36 of the Emergency Act, 'provider of a service of vital importance' means:

[RT I, 03.03.2017, 1 – entry into force 01.07.2017]

- 1) a producer whose power station has a net capacity exceeding 200 MW;
- 2) a line possessor whose power line crosses the national border and has a transmission capacity exceeding 100 MW;
- 3) the transmission network operator;

- 4) a distribution network operator whose distribution network connects to more than 10,000 consumers.

[RT I, 03.03.2017, 1 – entry into force 01.07.2017]

§ 21². Requirements to ensure operational continuity of services of vital importance

(1) A producer who provides a service of vital importance within the meaning of clause 1 of section 21¹ of this Act shall ensure the performance on their premises of rescue operations required for operational continuity of the service and shall ensure that a rescue unit required for such operations is available.

(2) For the purposes of this Act, rescue operations required for the operational continuity of the service means rescue operations that are unavoidable and urgent and that are carried out without delay on the producer's premises upon the occurrence of a rescue event until the arrival of the rescue authorities.

(3) Requirements for rescue units performing rescue operations specified in subsection 1 and the procedure for cooperation with the rescue authorities shall be established by a regulation of the minister responsible for the area.

[RT I, 10.11.2061, 1 – entry into force 01.01.2017]

§ 21³. Provider of a service of general interest

A network operator who engages in activities that require an authorization is deemed provider of a service of general interest within the meaning of the General Part of the Code of Economic Activities Act.

[RT I, 12.12.2011, 2 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

Division 3

Obligation of undertakings to notify and to hold authorization

[RT I, 29.06.2018, 2 - entry into force 01.01.2019]

§ 22. Requirement to hold relevant authorization

(1) An undertaking must hold the corresponding authorization to engage in the following activities:

1) the generation of electricity;

[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

2) the provision of network services through a distribution network;

3) the provision of network services through the transmission network;

4) [Repealed – RT I, 29.06.2018, 2 – entry into force 01.01.2019];

5) conveying electricity via a direct current line crossing the national border;

6) conveying electricity via a direct line or via direct lines.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) The obligation to hold authorization does not apply in the following cases:

1) when electricity is generated by a generating installation which has a net capacity of up to 200 kW;

[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

2) when electricity is conveyed in accordance with clauses 1 or 2 of subsection 6 of section 15 of this Act, or via a closed distribution network;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

3) [Repealed – RT I, 29.06.2018, 2 – entry into force 01.01.2019];

4) [Repealed – RT I, 29.06.2018, 2 – entry into force 01.01.2019];

5) [Repealed – RT I, 29.06.2018, 2 – entry into force 01.01.2019];

6) when electricity is generated in accordance with subsection 3 of section 16 of this Act;

[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

7) when electricity is conveyed via a direct line, provided the direct line is connected to a generating installation whose net capacity is up to 500 kW.

[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

(3) A generating installation that uses nuclear energy may be employed in the production of electricity provided this is authorized by a resolution of the *Riigikogu*.

(4) The authorization to provide network services through the transmission network is granted to one undertaking only.

(5) The undertaking that pursues the activity described at clause 2 or 3 of subsection 1 of this section is entitled, on conditions provided in law, to construct, in the service area stated in the authorization, correspondingly either the distribution or transmission network and to use that network in that area for the provision of network services.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 22¹. Obligation to notify

(1) In order to operate as a seller of electricity, an undertaking must present a notice of economic activities to the registrar of economic activities in accordance with the rules provided in the General Part of the Economic Activities Code Act.

(2) The obligation to notify does not apply in the following cases:

1) when selling electricity in accordance with clause 1 or 2 of subsection 6 of section 15 of this Act;

2) when selling electricity generated by the producer;

3) when selling electricity on the power exchange;

4) when selling electricity in accordance with subsection 3 of section 16 of this Act;

5) when selling electricity, provided the distribution network operator only provides, to the market participant, the service of open supply in accordance with subsection 4¹ of section 44, or universal service in accordance with section 76¹ of this Act;

6) when selling electricity, provided the electricity has been conveyed to the consumer via a direct line and generated by generating installations which have a total net capacity of less than 200 kW.
[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

§ 23. Applying for the authorization

(1) Applications for the authorization are to be decided on by the Competition Authority within 60 days, except for applications for the authorization to provide network services through the transmission network, which are to be decided on within 10 months.
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(2) In addition to the particulars and documents required by virtue of the General Part of the Code of Economic Activities Act, the following are to be annexed to the application for authorization:

- 1) in the case of provision of network services through a distribution network, the definition and schematic layout of the service area conforming to the provisions of section 62 of this Act;
 - 2) in the case of conveying electricity via a direct current line or direct line crossing the national border, the maximum rated operating voltage of the line, the length of the line, the schematic layout of the line and its geographical coordinates;
 - 3) in the case of conveying electricity via a direct line the document that certifies conformity to the condition stated in section 61 of this Act.
- [RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 24. Obligation to notify of terminating the exploitation of a generating installation

[Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 25. Application for authorization for generation of electricity

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 26. Subject of scrutiny of the authorization

(1) The authorization is issued to the undertaking if it meets the requirements established in section 15 of this Act.
[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

(2) The authorization for the provision of network services through a distribution network is issued to the undertaking if that undertaking, in addition to the provisions of sections 15 and 18(1)–(7) of this Act also fulfils the following requirements:

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

- 1) the organization of the undertaking is suitable considering the extent and nature of the activity applied for;
- 2) the undertaking employs a sufficient number of staff with the necessary qualifications, including persons qualified to perform electrical work[ML1] and to supervise electrical installations;
[RT I, 23.03.2015, 4 - entry into force 01.07.2015]
- 3) [Repealed - RT I, 23.03.2015, 4 - entry into force 01.07.2015]
- 4) the undertaking possesses commercial prerequisites for operating in the area of activity applied for;
- 5) the undertaking possesses other prerequisites necessary for operating in the corresponding area of activity in accordance with this Act and the legislation enacted under it;
- 6) the actions of the undertaking do not jeopardize the security of supply.

(3) The authorization for the provision of network services through a distribution network is to be issued if this is not in conflict with the provisions of subsections 1 and 2 of this section and with section 60 of this Act and provided that the geographical area stated in the application is suitable for the distribution of electricity.

(4) The authorization for providing network services through the transmission network is issued to the person who owns the transmission network, meets the requirements set out in section 18¹ of this Act and complies with the conditions provided under subsection 2 of this section.

(5) The authorization for the provision of network services through the transmission network is only issued to one network operator.

(6) The authorization for conveying electricity via a direct line is issued to the undertaking if the issuing of the authorization is in conformity with the provisions of section 60 and 61 of this Act.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) The authorization to convey electricity via a direct current line that crosses the national border is issued to the person if that person meets the requirements provided in subsection 2 of section 15 and in section 18¹ of this Act, provided the issuing of the authorization is in conformity with sections 60 and 61.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 26¹. Assessment of compliance with established requirements of transmission network operator and of possessor of a direct current line crossing the national border

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1) The Competition Authority shall assess compliance of the transmission network operator with the requirements established in section 18¹ of this Act in accordance with this section and article 3 of Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (OJ L 211, 14.08.2009, pp. 15–35).
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(2) The Competition Authority shall initiate the procedure of assessment of compliance with established requirements of the transmission network operator if the person applies for the authorization named at clause 3 of subsection 1 of section 22 of this Act.
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(3) The Competition Authority shall prepare a draft decision regarding the assessment of compliance with established requirements within four months from receipt of application for authorization and shall immediately transmit the draft decision together with the relevant information to the European Commission in order to obtain the opinion of the latter.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(3¹) If the authorization named at clause 3 of subsection 1 of section 22 of this Act is applied for by a transmission network owner or transmission network operator who is controlled by a person from a third country, the Competition Authority, prior to making the assessment decision, shall ask the European Commission its opinion on whether the person complies with the requirements set out in section 18¹ of this Act and whether certifying that the person complies with the requirements jeopardizes the security of supply of the European Union.
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) The Competition Authority shall make a decision regarding the assessment of compliance with established requirements within two months as of receipt of the opinion of the European Commission or within four months as of the request of the Commission's opinion. When making its decision the Competition Authority shall take the Commission's opinion into account to the greatest extent possible.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(5) If the Competition Authority has not made a decision regarding the assessment of compliance with established requirements within the time-limit set out in subsection 4 of this section, the transmission network operator is deemed to comply with the requirements set out in section 18¹ of this Act and the authorization named at clause 3 of subsection 1 of section 22 of this Act is deemed to have been issued.
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(6) The Competition Authority assesses compliance with the requirements provided in section 18¹ of this Act of the possessor of a direct current line that crosses the national border and that has a connection to the network of another country, following the provisions that govern the assessment of compliance with requirements of the transmission network operator.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 27. Application for authorization for transmission of electricity through a line

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 28. [Repealed – RT I 2010, 8, 40 – entry into force 27.02.2010]

§ 29. Special rules regarding refusal to issue the authorization

Where the Competition Authority refuses to issue the authorization for the activity named at clause 1 of subsection 1 of section 22 of this Act, it transmits a notice to that effect to the European Commission. The notice sets out the reasons for the refusal.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 30. Refusal to issue the authorization

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 31. Validity of authorization

[Repealed – RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 32. Ancillary conditions of the authorization

(1) The following ancillary conditions are included in the authorization for the production of electricity:

- 1) the maximum rated net capacity of the generating installation;
- 2) location data in respect of the generating installation;
- 3) data concerning the energy source used to operate the generating installation;
- 4) information concerning whether the electricity generated under the authorization may be sold using the support described in section 59 of this Act;
- 5) where the electricity generated under the authorization may be sold using the support described in section 59 of this Act, the list of requirements applicable to the generation of electricity from renewable sources and to the generating installations used for that purpose;
- 6) a description of the installations that may be used to generate and sell electricity when using the support described in section 59 of this Act.

(2) The following ancillary conditions are included in the authorization for the provision of network services through the distribution or transmission network:

- 1) the highest rated operating voltage of the network;
- 2) the technical, economic and organizational requirements that the network operator must meet;
- 3) in the case of provision of network services through the distribution network, information concerning the service area determined in accordance with section 62 of this Act.

(3) The following ancillary conditions are included in the authorization for the transmission of electricity via a direct current line crossing the national border or via a direct line:

- 1) the highest rated operating voltage of the network;
- 2) the geographical coordinates of the line and the length of the line.

(4) The following ancillary conditions may be included in the authorization:

- 1) the requirement to provide a security approved by the Competition Authority to cover the cost of resiting the network and the electrical installations connected to the network or to cover the cost of implementation of measures to rebuild the network and the electrical installations connected to the network;
- 2) a development obligation conforming to section 66 of this Act.

[RT I, 25.03.2011, 1 – entry into force 01.07.2014 (amended date of entry into force – RT I, 22.12.2013, 1)]

§ 33. Modification of authorization and establishment of new ancillary conditions

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(1) In addition to the grounds set out in the General Part of the Code of Economic Activities Act, the Competition Authority may, in observance of the General Part of the Code of Economic Activities Act, this Act and the principles of equal treatment and free competition, of its own motion modify the authorization or establish ancillary conditions thereto, provided this is necessary in order to reflect a legislative amendment, to ensure the security of supply, or to ensure compliance with an obligation emanating from this Act or from the legislation made under it.

(2) When modifying the authorization or establishing a new ancillary condition, the Competition Authority gives the holder of the authorization at least 90 days' advance notice in writing.

(3) Where delaying the modification of the authorization or the establishment of a new ancillary condition may jeopardize the security of supply, the Competition Authority is not required to observe subsection 2 of this section or the procedure established in the General Part of the Code of Economic Activities Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 34. Validity period of authorization

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 35. Extension of validity period of authorization

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 36. Revocation of authorization

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 37. Obligation to continue activities

[Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

Chapter 3 SYSTEM RESPONSIBILITY

§ 38. System responsibility and system operator

(1) System responsibility is the obligation to ensure security of supply and balance of the system at any moment in time.

(2) System responsibility shall attach to the system operator. The transmission network operator is the system operator.

(3) The system operator shall exercise the rights and perform the obligations arising from this Chapter in accordance with the principle of equal treatment.

§ 39. Obligations of system operator

(1) In order to perform the obligation provided in section 38 of this Act, the system operator:

1) ensures the security of supply of the system in accordance with the network code on the functioning of the electricity system;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

2) prepares an annual action plan to ensure security of supply for the following year and, if necessary, modifies that plan;

3) plans and manages generation in the system, the transmission of electricity in the transmission network and the consumption of electricity, taking account of the technical parameters of the system;

3¹) draws up the principles for regulating the system within the hour, the plan for the allocation of cross-border capacities and the principles of congestion management, having regard to the principles of congestion management set out in Regulation (EC) No 714/2009 of the European Parliament and of the Council and in Regulation (EU) 2015/1222 of the Commission, and publishes these on its website after having obtained the approval of the Competition Authority;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

4) ensures interoperability with neighbouring systems in real time, taking into account the technical parameters of such systems;

5) prepares and establishes action plans for network operators for the restoration of electricity supply and monitors the implementation of such plans;

6) organizes the restoration of electricity supply in accordance with the action plans referred to in clause 5 of this subsection;

7) settles the balance of the system and of the balance provider on the basis of information communicated to the system operator, and purchases regulating capacity and balancing electricity, and sells balancing electricity, in order to ensure effective operation of the electricity market and a fair division of the costs incurred in maintaining the balance of the system among the balance providers in accordance with this Act, the legislation enacted on its basis and the agreements entered into with balance providers;

8) verifies whether the balance providers meet the requirements provided in this Act and the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

9) requires balance providers to provide a bank guarantee in accordance with this Act and the network code on the functioning of the electricity market and checks whether the guarantee meets the requirements;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

10) enters into balance agreements with balance providers;

11) on the basis of data relating to balance settlement and other relevant data, presents invoices to the balance provider for each transaction period regarding the charges payable for the balancing electricity purchased by the balance provider and any other charges payable to the system operator by virtue of legislation or the corresponding agreement and collects the sums payable by the balance provider on the basis of the invoice;

12) on the basis of data relating to balance settlement and other relevant data, calculates the amounts of balancing electricity sold by a balance provider to the system operator during each transaction period and pays the balance provider for such amounts;

13) in the cases set out in section 20 of this Act, demands an increase in the amount of the guarantee provided by a balance provider or authorizes a reduction of that guarantee;

14) makes proposals to the minister responsible for the area regarding amendment of the regulations established under section 42 of this Act;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

15) regularly informs the public of development trends of the system;

15¹) provides information to the network operator whose network is connected to the network of the system operator in order to ensure the safe and effective operation of the system, its coordinated development and the interoperability of the joint system;

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

16) at the request of a market participant who intends to import electricity, issues a notice to the market participant stating its opinion on whether the planned import is permissible from the point of view of technical parameters of the system and whether such import would prejudice security of supply and, if necessary, establishes requirements for the import of electricity on the basis of the technical parameters of the system;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

17) performs other functions arising from this Act or from the regulations established under section 42 of this Act.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) When the system operator issues an order specified in subsection 2 of section 40 of this Act to a producer who has not entered into a production capacity adjustment agreement with the system operator, or reduces or increases generation on the grounds specified in subsection 2 of section 40 of this Act, and this causes the producer or balance provider to incur expenditures, the system operator subsequently reimburses to the producer or balance provider within a reasonable time those expenditures which are justified and documented and which the producer would not have incurred if the system operator had not issued the order or had not increased or reduced generation.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2¹) The system operator shall not reimburse the producer for loss of profit if the order to reduce generation which the system operator issued to the producer was made on the grounds specified in section 40(2) of this Act and provided all other options had been exhausted.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(3) The system operator shall not disclose information obtained in the course of performing its duties to third parties. This does not apply in cases where the disclosure of information is prescribed by law or where information is to be disclosed for the performance of obligations arising from this Act.

(4) The system operator shall be independent in its activities. The system operator shall observe the principle of equal treatment with regard to all market participants with the aim of achieving the best economic results for the whole system within the framework of existing technical requirements and requirements for the security of supply as well as other requirements arising from applicable legislation.

(5) At the request of the Competition Authority, the system operator shall submit information on the allocation of revenue and expenditure separately for maintaining and determining the balance of the system and for any other activities.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) When elaborating standard terms and conditions for balance agreements and setting the price of balancing electricity, the system operator shall observe the principles of equal treatment and transparency.

(7) The system operator shall prepare and submit a report to the European Commission, the Ministry of Economic Affairs and Communications and the Competition Authority which sets out:

[RT I 2007, 66, 408 – entry into force 01.01.2008]

- 1) estimated supply and demand of electricity during the next five years;
- 2) the existing supply potential;
- 3) generating installations envisaged or under construction;
- 4) the quality and level of maintenance of networks;
- 5) the measures to cover the estimated maximum demand (peak demand) and the measures to be implemented in the event of shortfalls of capacity;
- 6) operational security of the network;
- 7) a forecast of the situation in relation to the security of electricity supply for a period from five to fifteen years from the filing date of the report;
- 8) the investment plans of the distribution network operator and the known relevant investment plans of neighbouring countries concerning the establishment of cross-border interconnectors for the following five calendar years, taking into account the need to maintain trade secrets.

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(8) The investment plan specified in clause 8 of subsection 7 of this section shall set out:

- 1) principles of congestion management set out in Regulation (EC) No 714/2009 of the European Parliament and of the Council;
[RT I, 28.06.2012, 1 - entry into force 08.07.2012]
- 2) existing and envisaged transmission lines;
- 3) estimated patterns of generation and transmission of electricity, of cross-border exchanges in electricity and of consumption of electricity which make it possible to implement load management measures;
- 4) objectives of sustainable development at regional, national and European level, including projects which are part of the priority projects set out in Annex 1 to Decision No 1229/2003/EC of the European Parliament and of the Council of laying down a series of guidelines for trans-European energy networks and repealing Decision No 1254/96/EC (OJ L 176, 15.7.2003, pp. 11–28).
[RT I 2007, 23, 120 – entry into force 01.05.2007]

§ 39¹. Security of supply of micro isolated networks

The network operator in whose service area the micro isolated network is located ensures the security of supply and the balance of that network in accordance with this Act and the grid code.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 40. Rights of system operator

(1) In order to perform the obligation prescribed in section 38 of this Act and other obligations prescribed in this Act, the system operator shall demand that producers increase or reduce generation or that consumers reduce consumption or shall itself increase or reduce generation or consumption in accordance with the contracts entered into for the purchase of regulating capacity.

(2) In order to perform the obligation prescribed in section 38 of this Act and other obligations prescribed in this Act, the system operator has the right to issue mandatory orders to producers to increase or reduce generation, the right to issue mandatory orders to consumers to reduce consumption and the right itself to increase or reduce generation or consumption, regardless of whether a contract has been entered into with the system operator for the purchase of regulating capacity, provided that the issue of such orders or the increase or reduction of generation or consumption is necessary for technical reasons or in order to ensure security of supply.

(3) The system operator has the right to issue mandatory orders to other network operators and consumers for the restriction or interruption of the supply of electricity to consumers and the right itself to restrict or interrupt consumption in accordance with the action plan prepared under clause 5 of subsection 1 of section 39 of this Act, provided that this is necessary for the system operator to perform the obligation prescribed in section 38 of this Act or to perform other obligations. The specific procedure for the restriction and interruption of electricity supply referred to in this subsection and the obligations of network operators and consumers in relation to such restriction or interruption of supply are provided in the network code on the functioning of the electricity system.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4) When purchasing the electricity and regulating capacity necessary to perform its obligations and when using other relevant services, the system operator observes free market principles, acts with regard to all market participants in accordance with the principles of equal treatment and transparency, and avoids establishing unreasonable restrictions.

(5) In order to perform its duties, the system operator has the authority to establish justified technical restrictions for use of the system and the right to require that, in order to ensure the technical interoperability and security of supply of the system, producers and network operators enter into a cooperation agreement under reasonable conditions which conform to the principle of equal treatment.

(6) The system operator has the right to require that market participants and local authorities submit to it the information that it needs for the performance of its obligations.

(7) Any payments made and expenses reimbursed on the basis of section 39(2) of this Act and any other justified expenses incurred by the system operator in performing the obligations set out in this Act and the legislation enacted on its basis are deemed to be justified expenses incurred by the transmission network operator and such expenses shall be added to the expenses on the basis of which the transmission network operator sets and applies for the approval of, the charges payable for the transmission of electricity.

§ 40¹. Perimeter fee

In accordance with Regulation (EC) No 714/2009 of the European Parliament and of the Council, the system operator pays a perimeter fee to the fund created by the inter-transmission system operator compensation mechanism for electricity transit. Perimeter fees are charged on those electricity flows which originate from or end in such countries which have not joined the aforementioned compensation mechanism. The rate of the perimeter fee is determined each year in an agreement between the system operators which forms part of the compensation mechanism.
[RT I, 28.06.2012, 1 – entry into force. 08.07.2012]

§ 41. Liability of system operator

(1) The system operator compensates the harm caused to third parties in the course of performing its obligations only if that harm is direct and arose through the fault of the system operator.

(2) The system operator will not compensate any harm arising from or reimburse any expenditure or the loss of any profit incurred in the course of the performance of orders specified in subsections 2 and 3 of section 40 of this Act or as a result of restrictions imposed following subsection 5 of section 40 of this Act, except for payment of charges or reimbursement of expenditure to producers or balance providers in accordance with subsections 2 and 2¹ of section 39 of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 42. Grid code, network code on the functioning of the electricity system and network code on the functioning of the electricity market

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(1) The following shall be set out in the grid code:

- 1) requirements applicable in respect of security of supply;
- 2) technical requirements for electrical installations which are dictated by security of supply;
- 2¹) simplified conditions for connecting to the network a generating installation which has a capacity of less than 15 kW and which uses a renewable energy source;

[RT I 2010, 8, 40 – entry into force 27.02.2010]

- 3) ; [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 4) ; [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 5) ; [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 5¹) ; [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 5²) ; [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 5³) ; [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 5⁴) ; [Repealed – RT I, 29.06.2018, 2 – entry into force 27.04.2019]
- 6) other conditions prescribed by law.

(2) The grid code shall be established by the Government of the Republic.

(3) The Government of the Republic makes regulations to establish a network code on the functioning of the electricity system, which provides the following:

- 1) requirements applicable in respect of security of supply;
- 2) technical requirements for electrical installations which are dictated by security of supply;
- 3) the procedure for restricting or interrupting the supply of electricity and the obligations of the network operators and of consumers in relation to the restriction or interruption of the supply of electricity;
- 4) technical and metrological requirements for measurements and for measuring equipment;
- 5) the procedure for connection to the network and for amendment of the consumption or generation conditions;
- 6) the rules governing the calculation of charges payable to the network operator for connection to the network and for amendment of the consumption or generation conditions;
- 7) conditions for technical cooperation between the transmission network operator and the relevant network operators of neighbouring countries.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4) The minister responsible for the area makes regulations to establish a network code on the functioning of the electricity market, which provides the following:

- 1) the requirements and procedure for switching to another seller;
- 2) the requirements concerning information exchange between market participants;
- 3) the rights and obligations related to balance responsibility;
- 4) the conditions for determining the permanent and variable guarantee of the balance provider;
- 5) the terms and conditions for the sale of electricity in the event of an interruption in an open supply chain;
- 6) the procedure for set-offs of the price of universal service, for information exchange related to universal service and for provision of information to small consumers.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 42¹. Information exchange in electricity market

(1) An information exchange platform is a digital environment for information exchange in the electricity market for the purpose of changing open suppliers, transmitting metering data, performing the obligations imposed on market participants by the law and ensuring the rights granted to them..

(2) In order for the electricity market to function and to facilitate competition, the system operator shall create an information exchange platform and administrate it in such a manner that market participants, who are subject to a legal obligation and at the same time enjoy a legal right to submit information, have the opportunity to do so in time, as well as the opportunity to obtain information in a timely manner and on equal terms. No additional fee shall be charged for the submission and retrieval of information.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(3) The network operator, line possessor and open supplier shall transmit to the information exchange platform the following information:

1) identifier of the market participant as established in the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

2) identifier of the metering point as established in the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

3) information regarding the metering point as established in the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

4) metering or consumption data by metering point;

5) information regarding the term of the network contract and of the electricity contract of the market participant;

6) information regarding the open supplier of the metering point as established in the network code on the functioning of the electricity market;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

7) other information, as established in the network code on the functioning of the electricity market, which is required in order to achieve the objectives specified in subsection 1 of this section.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4) The procedure for submitting information shall be established in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(5) Transmission of personalised data via the information exchange platform to the seller who has no contract with the consumer who is a natural person shall require the consent of that consumer. This consent must meet the conditions provided in Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 04.05.2016, pp. 1–88).

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(6) The data transmitted to the information exchange platform are preserved for twelve years and are then deleted.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) The system operator shall publish on its website technical instructions for using and joining the information exchange platform.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

Chapter 4

BALANCE RESPONSIBILITY, BALANCE SETTLEMENT AND BALANCING ELECTRICITY

§ 43. Balance responsibility

(1) A market participant shall ensure that the amount of electricity supplied to the network and/or purchased by the market participant in each trading period is equal to the amount of electricity acquired from the network and/or sold by the market participant.

(2) The rights and obligations relating to balance responsibility shall be set out in detail in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 44. Open supply

(1) In order to perform the obligation specified in section 43 of this Act, a market participant shall enter into a contract with a seller (hereinafter, ‘open supplier’) whereby an open supply is ensured to the market participant (hereinafter, ‘open supply contract’).

(2) In an open supply contract entered into with a market participant, the open supplier designates the balance provider who has assumed the obligation to maintain the balance of the market participant who is the other party to the open supply contract entered into by the open supplier. The balance provider may assume the obligation:

- 1) by an open supply contract entered into with the open supplier;
- 2) through an uninterrupted chain of open supplies carried out pursuant to open supply contracts, beginning with the open supply provided by the balance provider and ending with the open supply provided to the open supplier specified in this subsection.

(3) An open supplier who is a balance provider is not subject to the obligation, provided in subsection 2 of this section, to designate a balance provider.

(4) The time-limits for conclusion and for termination of open supply agreements and the corresponding notice periods are provided in the network code on the functioning of the electricity market.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(4¹) If a market participant's contract for open supply has been interrupted, the network operator to whose network the market participant's electricity installation is connected is regarded as the market participant's open supplier until the execution of a new contract.
[RT I 2010, 8, 40 – entry into force 27.02.2010]

(4²) Pursuant to subsection 4¹ of this section, the network operator provides open supply to market participants, except for small consumers:

- 1) for the electricity obtained from the network, at the price of balancing electricity, to which any justified expenses shall be added;
- 2) for the electricity supplied to the network, free of charge.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) The system operator is the open supplier in respect of the balance provider. The balance provider enters into a balance agreement with the system operator to ensure open supply.

(5¹) In a micro isolated network, the balance provider's open supplier is the producer who is subject to the generation obligation described in section 55¹ of this Act.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) An open supplier shall provide information concerning the start and end of open supply to the electricity undertaking which determines the balance of the other party to the open supply.

(7) An open supplier shall also provide the information specified in subsection 6 of this section to:

- 1) the distribution network operator of the other party to the open supply if the distribution network operator does not determine the balance of that other party;
- 2) the entity which determines the balance of the open supplier, if the open supplier has not previously sold electricity to that distribution network.

(8) At the request of the system operator, a balance provider shall provide the system operator with information concerning the chain of open supplies carried out pursuant to its open supply contracts in respect of each market participant whose balance is determined by the balance provider.

(9) [Repealed – RT I 2007, 23, 120 – entry into force 01.05.2007]

(10) [Repealed – RT I 2007, 23, 120 – entry into force 01.05.2007]

(11) [Repealed – RT I 2007, 23, 120 – entry into force 01.05.2007]

§ 45. Fixed supply

(1) A balance provider shall determine the procedure for it to be notified of all fixed supplies to the market participant whose balance is maintained by the balance provider pursuant to section 44(2) of this Act.

(2) The system operator shall determine the procedure for it to be notified of all fixed supplies which affect the balance between balance providers or which are carried out through a line crossing the national border.

(3) A party to a fixed supply contract shall notify the start of a fixed supply to the balance provider who maintains its balance pursuant to section 44(2) of this Act and submit consolidated data concerning the other party to the fixed supply pursuant to the procedure determined by the balance provider.

(4) A party to a fixed supply contract shall provide its open supplier with consolidated data concerning the amounts of electricity sold and purchased as fixed supplies during each trading period.

(5) A balance provider shall provide the system operator with consolidated data regarding the fixed supplies belonging to its balance for each balance provider during each trading period if such fixed supplies affect the balance between it and other balance providers.

§ 46. Balance settlement

(1) The balance of a market participant shall be settled for each trading period.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(2) A market participant shall ensure that the data required for the settlement of its balance are submitted to the entity responsible for settling its balance in accordance with the rules provided in this Act and the network code on the functioning of the electricity market.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(3) Balance shall be settled using the following methods:
1) electricity metering by means of a remote reading device;
2) distribution on the basis of a combination of metering and load duration curves;
3) fixed supplies.

(4) As a result of balance settlement, the amount of open supply of a market participant is ascertained for each trading period.

(5) Balance settlement using a combination of metering and load duration curves is permitted at connection points where the size of the main circuit breaker on the phase conductor and the capacity of the phase do not exceed the limits set out in the network code on the functioning of the electricity market.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(6) Where the balance of a market participant cannot be settled by using a combination of metering and load duration curves as provided in subsection 5 of this section, the balance of the market participant shall be settled by using electricity metering by means of a remote reading device and by reference to fixed supplies.

(7) A network operator shall obtain the approval of the Competition Authority for the load duration curves established for its service area.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(8) If electricity consumption by a market participant or a group of market participants differs significantly from the established load duration curves due to the specific characteristics of the market participant or a category of market participants, the distribution network operator concerned may demand that the Competition Authority promptly approve a new load duration curve that corresponds to the specific characteristics of the market participant or the category of market participants. The distribution network operator may also commence metering the electricity consumed by the market participant or the category of market participants by means of a remote reading device. Any expenses associated with the cost of and incurred in relation to the installation of a remote reading device as well as additional expenses incurred in gathering and processing metering data shall be reimbursed to the distribution network operator by the market participant concerned.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(9) The electricity balance in a micro isolated network is formed on the basis of that network, separately from the balance of the system.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 47. Obligations of network operator in settling the balance

(1) A network operator shall arrange the communication of metering data necessary for balance settlement and for the settlement of accounts to the entity responsible for balance settlement and to the system operator for each connection and metering point in its network.

(2) A distribution network operator shall arrange settlement of the balance of the market participants connected to its network and the related exchange of information.

(3) A distribution network operator shall calculate the amounts of electricity of each market participant connected to its network whose balance is to be settled pursuant to this Act. In calculating amounts of electricity, the distribution network operator shall use data obtained as a result of metering carried out by means of a remote reading device or by a combination of metering and load duration curves.

(4) A distribution network operator shall provide the balance provider with consolidated data concerning electricity supply to and from its network separately for each market participant whose balance the balance provider is to maintain pursuant to section 44(2) of this Act.

(5) A distribution network operator shall provide a seller with the information required for maintaining the balance and for the settlement of accounts concerning the amounts of electricity calculated in the course of balance settlement for each market participant connected to its network to whom the seller sells electricity.

(6) Once a year the distribution network operator shall determine, for each market participant, the difference between the amount of electricity calculated using a combination of metering and load duration curves and the actual metered amount of electricity.

(7) If, according to the calculations carried out pursuant to subsection 6 of this section, the total amount of electricity calculated on the basis of a combination of metering and load duration curves for market participants to whom the seller sold electricity exceeds the total actual metered amount of electricity for such market participants, the network operator shall pay the seller for the difference between the said amounts of electricity, and if the total amount of electricity calculated in this way for such market participants is less than the total actual metered amount of electricity for such market participants, the seller shall pay the network operator for the difference between those amounts.

(8) The charge payable for the difference between amounts of electricity as specified in subsection 7 of this section shall be calculated using the average price of electricity during the period of time which was the basis for calculating the amount of electricity, and such price shall be determined on the basis and in accordance with the rules set out in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 48. Obligations of balance provider in settling the balance

(1) A balance provider shall arrange balance settlement and the related exchange of information in the transmission network and in the metering points between the transmission network and the distribution network for those market participants whose balance is maintained by the balance provider in accordance with section 44(2) of this Act. The balance provider shall also arrange balance settlement and the related exchange of information concerning feeds of electricity from the transmission network to the distribution network for the market participants who have fixed supplies and whose balance is maintained by the balance provider in accordance with section 44(2) of this Act.

(2) On the basis of metering data, the balance provider shall calculate the amounts of electricity sold by market participants whose balance is maintained by the balance provider in accordance with section 44(2) of this Act to other market participants through the transmission network. The balance provider shall also calculate the amounts of electricity for market participants connected to the distribution network, who have fixed supplies in accordance with data obtained as a result of metering using a remote reading device and data obtained as a result of a combination of metering and load duration curves.

(3) For the purposes of balance settlement, a balance provider shall provide the system operator with consolidated data which is based on metering information and which concerns open supplies as well as consolidated data concerning the fixed supplies of those market participants whose balance is maintained by the balance provider in accordance with section 44(2) of this Act.

(4) A balance provider shall provide the seller and the market participant to whom electricity was sold with information which is required for maintaining the balance and for settlement of accounts in relation the amounts of electricity calculated in order to settle the balance.

§ 49. Obligations of system operator in settling the balance

(1) The system operator shall carry out balance settlement for the whole system and for balance providers and, on the basis the data obtained, shall prepare a report on balance deviations between the system operator and the balance providers and draw up a report on balance deviations between the system and the electricity systems of other countries.

(2) The system operator shall provide a balance provider with information concerning the amounts of electricity they have sold to each other. The system operator shall inform a foreign market participant of amounts of electricity which were purchased and sold by the market participant and which crossed the national border of Estonia.

§ 50. Other obligations in connection with settling the balance

(1) Upon receiving a corresponding request, market participants shall provide the network operator, the balance provider maintaining their balance in accordance with section 44(2) of this Act and the system operator with information concerning the purchase, use and sale of electricity provided the request to submit such data is justified in the context of balance settlement or the exercise of balance responsibility.

(2) The balance provider shall assist the system operator in rectifying inaccurate information submitted for balance settlement if this is required in order to settle the balance of the whole system.

(3) The rights and obligations vested in market participants for the purpose of balance settlement and the term for the communication of information described in this Chapter shall be established specifically in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 51. Purchase and sale of balancing electricity

(1) If, on the basis of balance settlement, the balance of a balance provider is negative in any trading period, the system operator shall be deemed to have sold balancing electricity to the balance provider during the trading period in the amount necessary to maintain the balance of the balance provider during that trading period.

(2) If, on the basis of balance settlement, the balance of a balance provider is positive in any trading period, the balance provider shall be deemed to have sold balancing electricity to the system operator during the trading period in the amount necessary to maintain the balance of the balance provider during that trading period.

(3) The sale of balancing electricity specified in subsections (1) and (2) of this section shall be deemed to have been effected between the system operator and the balance provider under the conditions set out in this Act, the legislation enacted on its basis and the balance agreement.

§ 52. Rights and obligations of balance provider

(1) The balance provider is entitled to receive payment for any balancing electricity that it sells to the system operator in accordance with this Act, with the network code on the functioning of the electricity market and with the contract entered into with the system operator.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) The balance provider shall pay for the balancing electricity sold to it by the system operator in accordance with this Act, with the network code on the functioning of the electricity market and with the contract entered into with the system operator.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2¹) The balance provider shall reimburse to the system operator the perimeter fee payable on the relevant supplies of the market participant whose balance the balance provider maintains.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(3) The balance provider shall perform any other obligations prescribed by this Act, by the network code on the functioning of the electricity market and by the contracts entered into with the system operator.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019].

§ 53. Price of balancing service and standard terms and conditions of balance agreements

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1) The price of electricity sold to or by a balance provider during a given trading period following subsections 1 and 2 of section 51 of this Act is determined by the system operator after the end of the given trading period in accordance with this Act and the balance agreement concluded with the balance provider.

(2) When providing the balancing service, the system operator takes guidance from the principles provided in Article 44 of Regulation (EU) 2015/1222 of the Commission.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) When setting the price of balancing electricity, the system operator may accord preference to market participants whose balance deviation during a given trading period is converse to the balance deviation of the system as a whole during the same trading period, as opposed to market participants whose balance deviation during the same trading period is in the same direction as the balance deviation of the system as a whole.

(4) The system operator shall obtain approval for standard terms and conditions in the balance agreement from the Competition Authority.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) The system operator shall publish on its website the price of balancing electricity and the standard terms and conditions of the balance agreement.

(6) The system operator prepares and submits to the Competition Authority for approval a uniform method for calculating the price of the balancing service.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 54. Procedure for paying for balancing electricity

(1) The system operator shall calculate the amount of the charge to be collected from, and the amount of the charge to be paid to, a balance provider on the basis of the amounts of balancing electricity as determined

pursuant to section 51 of this Act and on the basis of the selling price of balancing electricity as determined pursuant to section 53 of this Act.

(2) The system operator shall submit invoices to the balance provider for each transaction period for the amount calculated pursuant to subsection 1 of this section and shall pay the invoices submitted to it by the balance provider for the amount calculated pursuant to subsection 1 of this section.

(3) The specific rules for the communication of data to the system operator and for the calculation, set-off and payment of the charges invoiced to balance providers for balancing electricity and of the charges payable to them for balancing electricity shall be set out in the network code on the functioning of the electricity market. [RT I, 29.06.2018, 2 – entry into force 27.04.2019]

Chapter 5 GENERATION

§ 55. Obligations of producer

(1) The generating installations of producers must conform to the technical requirements established by the regulations made under section 42 of this Act. The network operator to whose network the generating installation is connected or in whose service area the generating installation is connected to its network via a direct line and the electrical installation of a customer, certifies the installation's compliance with the requirements after the end of the testing period and on the basis of test results. If the net capacity of the generating installation exceeds 5 MW, the installation's compliance with the requirements is certified by the system operator. The generating installation is deemed to be in compliance with the requirements from the date that such certificate is issued. The length of the testing period and other conditions concerning the testing are provided in the regulations made under section 42 of this Act. If a European product certificate has been issued with respect to the generating installation, the testing of the generating installation in terms of the parameters and functions covered by that certificate is not required. [RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(2) The producer complies with any orders issued by the system operator in accordance with this Act.

(3) The producer notifies the system operator promptly of any dangerous situations, accidents or other circumstances that endanger or could endanger security of supply or the performance of any contractual obligations.

(4) A producer who is an undertaking in a dominant position as defined in the Competition Act and who generates electricity in a combined heat and power production regime must, at the demand of the Competition Authority, submit information on the allocation of revenue and expenses separately for the generation of electricity and for heat production together with the relevant reasons.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

§ 55¹. Producers subject to generation obligation

The electricity required to meet the electricity needs of the consumers in a micro isolated network is generated by the person who entered into the corresponding agreement in the manner specified in section 66¹ of this Act, or by the distribution network operator in whose service area the micro isolated network is located (hereinafter, 'producer subject to the generation obligation').

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 56. Transfer of generating installation

(1) The owner of a generating installation and a producer shall notify the Competition Authority in writing of any transfer of ownership or of direct possession of the generating installation. The notice shall set out the names, personal identification codes or registration numbers in the Commercial Register and contact details of the transferor and transferee or of the person assigning possession and the person acquiring possession, and information which allows the transferred or assigned generating installation and its location to be identified. [RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The obligation set out in subsection 1 of this section does not apply to the transfer or assignment of possession of a generating installation with a net capacity of 1 MW or less.

§ 57. Renewable energy sources

(1) For the purposes of this Act, renewable energy sources means water, wind, solar, wave, tidal and geothermal energy sources, landfill gas, sewage treatment plant gas, biogases and biomass.

(2) For the purposes of this Act, biomass means the biodegradable fraction of products, waste and residues from agriculture (including vegetable and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste.

(3) Liquid biofuel shall be regarded as a renewable energy source within the meaning of this Act only if it meets the criteria for the sustainability of biofuels established in accordance with subsection 1 of section 120 of the Atmosphere Protection Act.

[RT I, 05.07.2016, 1 – entry into force 01.01.2017]

§ 58. Generation from renewable energy sources and efficient cogeneration

(1) Producers may not subsidize generation from renewable energy sources at the expense of generation from other sources and vice versa. At the demand of the Competition Authority, the producer submits information on the allocation of revenue and expenses separately for generation from renewable energy sources and for generation from other sources.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The amount of electricity with regard to which a guarantee of origin specified in section 58¹ of this Act is issued, as well as the amount of electricity in respect of which the support specified in section 59, 59⁴, 59⁵ and 59⁶ of this Act is paid in part or in full, is determined using remote meter reading devices and is deemed to include the total of balanced electricity supplied to the networks of network operators holding the corresponding authorization through all connection points of the producer's power station during the trading period, as well as the amount of electricity conveyed to consumers via a direct line which conforms to the requirements of this Act. In the case described in section 108¹ of this Act, the quantity of electricity on which support is paid or for which a certificate of origin is issued is determined, by means of a separate dedicated remote meter reading device, separately for each electrical installation that is used to generate electricity.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) By the fifth day of each calendar month, the producer submits information to the transmission network operator in respect of each generating installation regarding the entire amount of electricity generated during the previous calendar month, and the amount of electricity generated from renewable energy sources or in an efficient cogeneration process during the previous calendar month, and the proportion of electricity that was sold using the support referred to in section 59 of this Act.

[RT I, 05.07.2016, 3 – entry into force 01.01.2017]

(4) The Competition Authority and the transmission network operator shall have the right to demand from the producer, line possessor or network operator to whose network or line the generating installations of a producer are connected, the data necessary for the verification of the information submitted pursuant to subsection 3 of this section.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) If the amount of electricity actually generated from renewable energy sources or in an efficient cogeneration process by means of a generating installation which conforms to the requirements of the authorization is less than the amount of electricity sold by the producer by using the support provided in section 59 of this Act during at least two consecutive calendar months, the Competition Authority shall be entitled to revoke the authorization or to amend its conditions such that electricity can no longer be sold by using the support set out in section 59 of this Act.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(6) If electricity is generated from a combination of renewable energy sources and other sources, the producer shall receive the support assigned on the basis of section 59(1)(1) of this Act only for such amounts of electricity as are generated from renewable energy sources. A producer shall keep records on the use of energy sources and on the amounts of electricity generated from those sources.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(7) The conditions of and procedure for determining the proportion of electricity generated from renewable energy sources shall be established by the minister responsible for the area.

(8) The transmission network operator publishes on its website the procedure for submitting the information specified in subsection 3 of this section.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 58¹. Guarantees of origin

(1) A guarantee of origin is an electronic document which is issued by the transmission network operator to a producer on the basis of the producer's application and which certifies that the electricity is generated from renewable energy sources or in an efficient cogeneration process.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(1¹) The standard unit of energy of a guarantee of origin is one megawatt-hour. One guarantee of origin is issued in respect of each megawatt-hour of electricity generated.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(1²) The origin of the electricity consumed is certified by using guarantees of origin issued in a member state of the European Economic Area. Guarantees of origin may be bought separately from the electricity generated. The owner of a guarantee of origin must report the use of the guarantee of origin to the transmission network operator following established procedure.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(1³) A guarantee of origin may be used during twelve months following the generation of the corresponding unit of energy. The validity of the guarantee of origin ends once it has been used. Where the guarantee of origin is used in the calendar year in which the corresponding unit of energy was generated or not later than on 31 March of the calendar year following the year of generation, that guarantee of origin is deemed to have been used in the calendar year of the generation of the corresponding unit of energy. Where the guarantee of origin is used after 31 March of the calendar year following the year of generation of the corresponding unit of energy, the guarantee of origin is deemed to have been used in the calendar year following the year of the generation.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(1⁴) In certifying the origin of the electricity supplied to the consumer, only guarantees of origin may be used to certify the origin of the supplies of electricity generated from renewable sources.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(2) The transmission network operator shall elaborate and publish on its website the conditions and procedure for the issue of guarantees of origin and a price list of the services developed to cover the cost of administering the guarantees of origin. The transmission network operator is entitled to charge a justified fee for any operation concerning guarantees of origin.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(3) The transmission network operator shall create a database for the administration of guarantees of origin and shall publish information regarding the issued guarantees of origin on its website. Information concerning the issue of a guarantee of origin is published on the website of the transmission network operator not later than during the business day following the day of issue of the guarantee of origin.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(4) Guarantees of origin shall set out:

- 1) the name, address of the seat of business and contact information of the producer;
 - 2) the location, type and installed electrical capacity of the generating installation, and the designation of the energy source used for the generation of electricity;
- [RT I, 12.07.2014, 3 – entry into force 22.07.2014]
- 3) the date on which the generating installation supplied electricity for the first time;
 - 4) the start and end date of the generation of the energy unit;
 - 5) whether and to what extent the producer has received investment support or the support specified in section 59 of this Act;
 - 6) the date of issue of the guarantee of origin and its identification number.
- [RT I, 28.06.2012, 1 – entry into force 08.07.2012]
- 7) [repealed – RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(5) In addition to the information described in subsection 4 of this section, the guarantees of origin of electricity generated in an efficient cogeneration process also state the following particulars:

- 1) the calorific capacity of the generating installation;
- 2) the lower calorific value of the fuel used;
- 3) the volume and manner of use of the thermal energy generated in the cogeneration process;
- 4) the nominal electrical and thermal efficiency of the generating installation;
- 5) the primary energy saving calculated in accordance with the regulation made under subsection 3 of section 7 of this Act.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(6) When a guarantee of origin is transferred to new holder, the transfer is effected through the electronic database of guarantees of origin.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

§ 58². Residual mix

The transmission network operator elaborates a methodology for the calculation of residual mix and publishes the residual mix calculated in respect of the previous year by 30 June.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

§ 59. Support

(1) Producers are entitled to receive from the transmission network operator the support described in this section:

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

1) for electricity generated from a renewable energy source using a generating installation whose net capacity does not exceed 125 MW;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2) since 1 July 2010, for electricity if it is generated from biomass in an efficient cogeneration process, except where electricity is generated from biomass in a condensation process, in which case no support is paid. Detailed guidelines for cogeneration shall be established by means of a regulation of the Government of the Republic at the proposal of the minister responsible for the area. In formulating his or her proposal to the Government of the Republic regarding detailed guidelines for cogeneration the minister responsible for the area shall proceed on the basis of the proposal of the Competition Authority;

3) for electricity if it is generated in an efficient cogeneration regime from waste within the meaning of the Waste Act, from peat or carbonisation gas obtained as a result of oil shale processing;

4) for electricity if it is generated in an efficient cogeneration process with a cogeneration installation which has the electric capacity not exceeding 10 MW;

5) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) The transmission network operator pays support to the producer on the basis of an application submitted by the latter as follows:

1) 0.0537 euros per one kilowatt-hour of electricity if it is generated in accordance with points 1 or 2 of subsection 1 of this section;

[RT I 2010, 22, 108 – entry into force 01.01.2011]

2) 0.032 euros per one kilowatt-hour of electricity if it is generated in accordance with points 3 or 4 of subsection 1 of this section;

[RT I 2010, 22, 108 - entry into force 01.01.2011]

3) per one kilowatt-hour of electricity at the rate specified in points 1 and 2 of this subsection or at the rate approved by the Competition Authority if the electricity is generated in an efficient cogeneration process using a renewable energy source or peat.

4) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

5) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

6) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2¹) The support described in subsection 2 of this section is state aid within the meaning of paragraph 1 of Article 107 of the Treaty on the Functioning of the European Union, and is granted following European Commission's guidelines on state aid for environmental protection and energy, and the relevant decision of the European Commission authorizing the granting of state aid.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2²) The producer has the right to apply for the support described in subsection 2 of this section for electricity generated by a generating installation that has an electrical capacity of at least 1 MW, provided that producer has, at the latest as of 31 December 2016, commenced work on the investment project concerning that generating installation in one of the following ways:

1) commenced the generation of electricity;

2) commenced building work concerning that investment project;

3) assumed a definite obligation to order equipment for constructing the generating installation;

4) assumed any other obligation that makes the investment project irreversible, taking into consideration that obligations making the investment project irreversible are deemed not to include acquisition of the plot on which the generating installation is to be constructed, procurement of requisite authorizations or preparatory work.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2³) When a producer applies to the transmission network operator for an assessment regarding compliance with the condition described in subsection 22 of this section, the transmission network operator must provide the assessment within 90 days starting from receipt of the corresponding application. The running of the time-limit for considering the application is interrupted if the transmission network operator is not provided with the information necessary to reach a decision in the matter.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2⁴) In the case of generating installations whose electrical capacity is higher than 50 kW but falls below 1 MW, in order to receive the support described in subsection 2 of this section, the relevant installation of the producer must generate electricity at the latest on 31 December 2018.

[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

(2⁵) For electricity generated by a generating installation whose electrical capacity falls below 50 kW, the producer may receive the support described in subsection 2 of this section provided electricity is generated at the latest on 31 December 2020 and provided the producer has not received investment support from the State for the construction of the relevant installation.

[RT I, 29.06.2018, 2 – entry into force 01.01.2019]

(3) The Competition Authority may, on the basis of the corresponding application from the producer, approve a rate that is different from the rate specified in clauses 1–3 of subsection 2 of this section if the electricity is generated in an efficient cogeneration process from a renewable energy source or peat. When a new rate of support is approved, the Ministry for Economic Affairs and Communications submits a separate state aid notice to the European Commission following section 34¹ of the Competition Act. The transmission network operator applies the new rate of support approved by the Competition Authority after the European Commission's decision to authorize that rate.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(4) In approving the rate specified in subsection 3 of this section it shall be taken into account that the support and the market price of electricity together must allow the producer to:

- 1) cover the justified expenses incurred in generating electricity, provided that the fuel expenses do not exceed the market price of the fuel;
- 2) cover any expenses incurred in connection with performing the obligations arising from legislation and the conditions of the authorization;
- 3) cover any justified cost of capital;
- 4) ensure a justified return on capital.

(5) The minister responsible for the area may, if necessary, establish a list of particulars to be submitted in the application referred to in subsection 3 of this section and the procedure for the submission of such particulars.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

§ 59¹. Conditions of support

(1) The following conditions must be met in order to be eligible for the support specified in section 59 and 59^{4–59⁶} of this Act:

1) the electricity is generated by means of a generating installation that complies with the requirements of this Act, the grid code and the network code on the functioning of the electricity system;

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

2) the producer fulfils the obligations provided in Chapter 4 and section 58 of this Act;

3) the measurable data to be provided in the application for support concerning the quantity of fuel, the determination of calorific value of the fuel and the amount of heat generated in the co-generation process have been verified following section 59³ of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) The producer is not granted the support described in sections 59 and 59^{4–59⁶} of this Act:

1) if the State has paid the producer who generates electricity using wind as the source of energy an investment support for the relevant generating installation, and the producer has not reimbursed the investment support to the State;

2) if the producer lacks the environmental authorizations required in order to generate electricity or is in breach of the conditions provided in such authorizations;

3) for electricity generated for the power station's own consumption;

4) for electricity generated when, in Estonia's price area of the power exchange, negative market price was in effect on the next-day market;

5) for electricity generated in the framework of a cooperation project described in section 92⁵ of this Act;

6) if the producer is an undertaking in difficulty within the meaning of the European Commission's guidelines on state aid for rescuing and restructuring non-financial undertakings in difficulty;

7) if the producer is not in compliance with an obligation to repay state aid that has been declared unlawful and incompatible with the internal market on the basis of a decision of the European Commission.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) The application specified in subsection 2 of section 59 of this Act sets out the particulars of the generating installations, the information required by legislation in order to receive the support and the information specified by the transmission network operator in order to determine the origin of the electricity when the origin and amount of the electricity cannot be established unequivocally.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(4) [Repealed – RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) A producer who uses wind as the source of energy and who complies with the condition described in subsection 2² of section 59 of this Act may receive support until support has been paid in Estonia for a total amount of 600 GWh electricity generated from wind energy in the calendar year. Separate accounts are kept in respect of each calendar year.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) Taking guidance from the objectives provided in Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 05.06.2009, pp. 16–62), the transmission network operator publishes on its website the following information:

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

1) the estimated amount of electricity to be produced from a renewable energy source and in an efficient co-generation process in the following calendar month and the following calendar year;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2) data concerning the amount of electricity generated from wind energy during the given calendar year by calendar month;

2¹) the amount of electricity generated in the previous calendar year from a renewable energy source;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2²) the amount of electricity generated in the previous calendar year in an efficient co-generation process;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2³) final consumption of electricity in the previous calendar year;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2⁴) the proportion in percent of electricity produced in the previous calendar year from a renewable energy source and in an efficient co-generation process, based on clauses 2¹–2³ of this subsection;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

3) an estimate for achieving the amount of electricity specified in subsection 5 of this section for the current calendar year on the basis of the amount of electricity actually generated from wind energy during preceding months;

4) a list of the particulars specified in subsection 3 of this section and the procedure for submission of those particulars.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 59². The funding of support

(1) The expenditure incurred in relation to funding the support described in section 59, 59⁴ and 59⁶ of this Act and justified expenditures on administrating the support described in sections 59 and 59⁴–59⁶, as well as justified expenditures on administrating the electronic database of certificates of origin is borne by consumers taking into consideration the volume of network services used and the amount of electricity consumed via a direct line.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(2) The transmission network operator prepares and publishes on its website by 1 December each year an estimate for the next calendar year concerning the cost of funding the support described in sections 59 and 59⁴ of this Act for electricity generated from renewable energy sources or in an efficient co-generation process, concerning the volume of network services to be provided to consumers and concerning the amount of electricity to be consumed via direct lines. Where this is justified, the transmission network operator has the right to adjust, during the current calendar year, the estimate referred to in this subsection and the cost of funding the support.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(3) At the demand of the transmission network operator, the distribution network operators and line possessors submit their estimates for the next calendar year concerning the volume of network services they expect to provide and the amount of electricity they expect to be consumed via direct lines.

(4) On the basis of the estimate referred to in subsection 2 of this section, the transmission network operator determines the cost of funding the support in the following calendar year per one kilowatt-hour of network services used and of electricity consumed via direct lines, taking into account any sums by which the funding of the support described in sections 59, 59⁴ and 59⁶ of this Act during the 12 months immediately preceding the preparation of the estimate overshot the total of support payments or fell short of that, the interest earned on the sums by which the funding overshot the estimate or the interest paid on the sums by which the funding fell short of the estimate and the justified expenses incurred as a result of administrating the payment of support described in sections 59 and 59⁴–59⁶ of this Act and the electronic database of certificates of origin described in section 58¹ of this Act. The transmission network operator publishes on its website the cost of funding the support together with the underlying data and calculation methods.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5) The network operator shall send the consumer an invoice for network services and for electricity consumed via a line possessor's direct line, setting out as a separate item the expense of funding the support for electricity generated from renewable energy sources and electricity generated in an efficient cogeneration process.

(6) The distribution network operator and the line possessor shall submit to the transmission network operator, by the fifth day of every month, information regarding the amount of network services provided and the amount of electricity consumed via direct lines.

(7) The transmission network operator shall, on the basis of the information referred to in subsection 6 of this section, by the seventh day of every month submit an invoice to the network operator or line possessor for the funding of the support. The amount specified in the invoice must be paid to the transmission network operator by the 21st day of the month, regardless of whether consumers have paid for the funding of the support.

(8) If the information referred to under subsection 6 of this section is not submitted by the due date, the transmission network operator shall have the right to draw up an invoice on the basis of an estimate of the consumption by the consumers of the distribution network operator or line possessor. When accurate information is received, the transmission network operator shall set off the accounts on the invoice for the next month.

(9) The transmission network operator shall pay the support specified in section 59 of this Act to the producer on the 21st day of the calendar month if the requirements provided in section 59¹ have been met.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 59³. Reports concerning fuel used to generate electricity

(1) The producer ensures measurement of the quantity of fuel used to generate electricity.

(2) The producer determines and documents, in the fuel report, the calorific value of the fuel used to generate electricity.

(3) The minister responsible for the area makes regulations to establish the list of particulars of the report concerning fuel used to generate electricity and the procedure for filling out and proving that report.

(4) At the demand of the transmission network operator, the producer presents to that operator the report concerning fuel used to generate electricity.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 59⁴. National objective of generating electricity from renewable energy sources and in an efficient co-generation process, and attainment of that objective

(1) Under this section, support is paid in order to attain the objective of generating electricity from a renewable source listed in the renewable energy action plan adopted under the sectoral action plan for energy approved on the basis of subsection 2 of section 20 of the State Budget Act (hereinafter, 'renewable energy action plan') and in order to attain, by 31 December 2020, the quantity of electricity generated by an efficient co-generation process that constitutes up to 10 percent of the final consumption of electricity.

(2) The objectives of generating electricity from a renewable energy source after the year 2020 and the amendments to the principles for attaining these objectives are approved by a resolution of the *Riigikogu*.

(3) At least three months prior to the expected approval of the objectives and of amendments to the principles for attaining these objectives, described in subsection 2 of this section, the Government of the Republic submits those objectives and amendments to the *Riigikogu*.

(4) By 1 April each year, the Ministry of Economic Affairs and Communications prepares an overview of the progress towards attaining the objectives described in subsection 1 of this section and draws up an estimate of the additional quantity of electricity required to attain those objectives. The preparation of the aforementioned overview is based on the particulars published in accordance with clauses 1–3 of subsection 7 of section 59¹ of this Act. The overview is published on the website of the Ministry.

(5) If, according to the estimate, the objectives provided in subsection 1 of this section will not be attained, the Government of the Republic authorizes the minister responsible for the area to arrange a public reverse auction in order to find the most advantageous producer to generate the quantity of electricity required to attain the objective.

(6) In addition to Estonian legal persons, participation in the reverse auction is open to legal persons from countries of the European Economic Area, provided the law of the country of domicile of the legal person permits Estonian legal persons to participate in a similar reverse auction in that country.

(7) The reverse auction is open only to tenders of electricity generated by a generating installation that will begin to generate electricity for the first time after determination of the winner of the auction.

(8) If a generating installation that participates in the reverse auction has received investment support on behalf of the State, a proportion of the investment support corresponding to the period of operating support must be deducted from the rate of the support described in this section.

(9) The highest rate of the support to be granted to the winner of the reverse auction is:

1) 0.0537 euro for each kilowatt-hour of electricity generated from a renewable energy source, determining the rate of the support such that the payment received by the producer, including the average exchange price of electricity in the next-day market in the Estonian price area for the calendar month preceding the calendar month in which the support is paid, does not exceed 0.093 euro for each kilowatt-hour;

2) 0.032 euro for each kilowatt-hour of electricity generated by means of an efficient co-generation process, determining the rate of the support such that the payment received by the producer, including the average exchange price of electricity in the next-day market in the Estonian price area for the calendar month preceding the calendar month in which the support is paid, does not exceed 0.072 euro for each kilowatt-hour.

(10) The terms and procedure of the reverse auction are established by an order the Government of the Republic. When establishing the terms and procedure of the reverse auction, the Government of the Republic proceeds on the basis of the guidelines referred to in subsection 2¹ of section 59 of this Act.

(11) At the proposal of the minister responsible for the area, the Government of the Republic decides, by directive, the producer who will generate the additional quantity of electricity determined on the basis of subsection 5 of this section, and who will, for up to 12 years starting from commencement of generation, be paid support on the basis of the results of the reverse auction.

(12) The Government of the Republic has the right to revoke the directive referred to in subsection 11 of this section if the winner of the reverse auction does not comply with the conditions prescribed in the reverse auction.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 59⁵. The objective of generating energy from a renewable energy source for statistical energy transfers and attainment of that objective

(1) If the need to produce an additional quantity of electricity from a renewable energy source in order to fulfil the agreement referred to in subsection 1 of section 92⁴ of this Act becomes apparent, the Government of the Republic authorizes the minister responsible for the area to arrange a public reverse auction to find the most advantageous producer.

(2) The reverse auction is not open to electricity produced by a generating installation for which the producer, at the time when the reverse auction is announced, already receives the support described in this section or in sections 59, 59⁴ or 59⁶ of this Act, or energy that, at the time the reverse auction is announced, already contributes to meeting the objectives provided in Annex I of Directive 2009/28/EC of the European Parliament and of the Council.

(3) The reverse auction is subject to the condition provided in subsection 8 of section 59⁴ of this Act.

(4) The terms and procedure of the reverse auction are established by an order the Government of the Republic. When establishing the terms and procedure of the reverse auction, the Government of the Republic proceeds on the basis of the guidelines referred to in subsection 2¹ of section 59 of this Act.

(5) At the proposal of the minister responsible for the area, the Government of the Republic designates, by directive, the quantity of energy required to fulfil the agreement referred to in section 92⁴ of this Act and the producer who will be paid support on the basis of the results of the reverse auction mentioned in subsection 1 of this section for the period during which the relevant statistical transfer agreement is in effect. The annual cost of the support must not exceed the annual income received by the transmission network operator on the basis of the agreement referred to in subsection 1 of section 92⁴ of this Act.

(6) If the producer who submitted the best bid in the reverse auction referred to in subsection 1 of this section uses biomass to produce energy, the Ministry of Economic Affairs and Communications, before the directive referred to in subsection 5 is made effective, and before the agreement referred to in subsection 1 of section 92⁴ of this Act is concluded, presents to the Government of the Republic an analysis of the effect that the procurement of the quantity of biomass required to produce the energy will have on the Estonian wood market. The analysis is performed based on the principles provided in the strategic plan referred to in section 7 of the Forest Act. Before concluding the agreement, the Government of the Republic hears the opinions of the Committee on Economic Affairs and the Committee on Environment of the *Riigikogu*.

(7) The Government of the Republic has the right to revoke the directive referred to in subsection 5 of this section if the winner of the reverse auction does not comply with the conditions assumed in the reverse auction.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 59⁶. Reverse auction of generating installations that have an electrical capacity of less than 1 MW and that use a renewable energy source

(1) Under this section, support is paid by means of reverse auction, for electricity produced by generating installations that use a renewable energy source and that have an electrical capacity of more than 50 kW and less

than 1 MW with the objective of increasing the annual production of electricity by such producers in the years 2019–2021 by 5 GWh.

(2) The objectives of reverse auctions of generating installations referred to in subsection 1 of this section that will come into effect after the year 2021 are to be established by resolution of the *Riigikogu*.

(3) The Government of the Republic submits the objectives referred to in subsection 2 of this section to the *Riigikogu* for approval at least 3 months before their estimated adoption.

(4) The reverse auction is arranged by the minister responsible for the area.

(5) The terms and procedure of the reverse auction are established by an order the Government of the Republic. When establishing the terms and procedure of the reverse auction, the Government of the Republic proceeds on the basis of the guidelines referred to in subsection 2¹ of section 59 of this Act.

(6) The reverse auction is open only to bids for the production of electricity by a generating installation that will begin to generate electricity for the first time after determination of the winner of the auction and for which no investment support has been paid on behalf of the State.

(7) The highest rate of the support to be granted to the winner of the reverse auction is 0.0537 euro for each kilowatt-hour of electricity generated from a renewable energy source, determining the rate of the support such that the payment received by the producer, including the average exchange price of electricity in the next-day market in the Estonian price area for the calendar month preceding the calendar month in which the support is paid, does not exceed 0.093 euro for each kilowatt-hour.

(8) The Government of the Republic decides, by directive, the producer who will generate the additional quantity of electricity determined within the framework of the reverse auction, and who will, for 12 years starting from commencement of production, be paid support on the basis of the results of the reverse auction.

(9) The Government of the Republic has the right to revoke the directive referred to in subsection 8 of this section if the winner of the reverse auction does not comply with the conditions prescribed in the reverse auction.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

Chapter 6 NETWORK ACTIVITIES

Division 1 General regulation of network activities

§ 60. Construction of network and provision of network services

(1) A network or a line may be constructed and/or network services may be provided in the service area indicated in the authorization of a distribution network operator only by the distribution network operator. This does not apply if in the service area of the distribution network operator:

- 1) a transmission network is constructed and network services are provided through this network by the transmission network operator;
 - 2) a direct line is constructed and it is used in accordance with section 61 of this Act and the corresponding authorization;
 - 3) a direct current line that crosses the national border is constructed and it is used in accordance with section 61 of this Act and the corresponding authorization;
 - 4) a closed distribution network is being built or electricity is being conveyed in a closed distribution network.
- [RT 29.06.2018, 2 – entry into force 09.07.2018]

(2) It is not contrary to subsection 1 of this section when:

- 1) an electrical installation which belongs to another distribution network operator is located in or crosses the service area indicated in the authorization of the distribution network operator and network services are provided to the distribution network operator through the electrical installation;
- 2) an electrical installation which belongs to another distribution network operator is located in or runs across the service area indicated in the authorization of the distribution network operator, and network services are not provided to consumers located in the area through the electrical installation;
- 3) another distribution network operator reconstructs an electrical installation which belongs to itself in the service area indicated in the authorization of the distribution network operator and network services are not provided to consumers in the area through the electrical installation.

4) there is a direct line in the service area specified in the authorization of the distribution network operator.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 60¹. Creation of micro isolated networks

(1) In a micro isolated network, network services are provided by the distribution network operator in whose service area the micro isolated network is located.

(2) A micro isolated network is created in the following cases:

1) to fulfil the obligations incumbent on the distribution network operator by virtue of legislation or
2) in a sparsely populated area where consumption density is less than 15 megawatt-hours per kilometre of power line.

(3) On creation of a micro isolated network on the basis of clause 2 of subsection 2 of this section, the following conditions must be met:

1) the micro isolated network is economically justified;
2) performance of the network contract vis-à-vis the consumers in the micro isolated network is guaranteed on standard terms of provision of network service that have been approved on the basis of subsection 1 of section 73 of this Act.

(4) No micro isolated network may be created in an area in which the consumer is a provider of vital service or occupant of a national defence object.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 61. Direct line and line crossing the national border

(1) A consumer or an electricity undertaking has the right to construct and use a direct line in order to supply electricity to itself or to consumers or to an undertaking belonging to the same group as the electricity undertaking only if:

[RT 29.06.2018, 2 – entry into force 09.07.2018]

1) the direct line is built on the immovable on which the producer's power station is located, on an adjacent immovable or to an electrical installation located at a distance of up to six kilometres from the generating installation;

[RT 29.06.2018, 2 – entry into force 09.07.2018]

2) due to the need to amend the network contract entered into with the network operator pursuant to section 83 of this Act the builder of the direct line has agreed with the network operator the terms and conditions of consumption or production or has agreed to amend those terms and conditions for reasons related to the construction of the direct line and the connection of the generating installation to the network;

3) the builder of the direct line has submitted to the network operator information regarding the maximum rated operating voltage of the line, the length of the line, its geographic coordinates, its layout and other principal technical parameters.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(¹) The line possessor shall install a metering device which meets the requirements established in the relevant legislation in order to determine the amounts of electricity conveyed via its line and ensure the collection and processing of metering data in accordance with this Act and with the network code on the functioning of the electricity system.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(²) A direct line may be constructed in an area other than the area specified in clause 1 of subsection 1 of this section only if at least one of the following conditions is complied with:

[RT 29.06.2018, 2 – entry into force 09.07.2018]

1) the network operator has refused to connect the electrical installation of the consumer, producer or seller to the network or to provide other network services on grounds other than those set out in sections 65(3)(1) or 65(3)(2) of this Act and if contesting such a refusal with the Competition Authority in accordance with section 99 of this Act has not yielded a solution which would ensure the requested electricity supply to the consumer, producer or seller;

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

2) the network operator in whose service area the construction of the direct line is planned gives its written consent to the construction and use of the direct line.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(2) [Repealed – RT 29.06.2018, 2 – entry into force 09.07.2018]

(3) [Repealed – RT 29.06.2018, 2 – entry into force 09.07.2018]

(4) A direct current line which crosses the national border and which has a voltage exceeding 10 kV shall be connected to the transmission network in the location determined by the transmission network operator and in compliance with the technical conditions established by the transmission network operator.

(5) An alternating current line which crosses the national border and which has a voltage exceeding 35 kV may be constructed and used only by a network operator who holds the authorization for the activity named at clause 4 of subsection 1 of section 22 of this Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(6) If a market participant wishes to preserve the capacity of the existing network connection when using a direct line, the market participant shall pay to the network operator the charge specified in section 71(1)(3) for ensuring the possibility to use a network connection.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 62. Service area

(1) The service area of a distribution network operator is the area which is set out in the decision to issue an authorization to the operator and determined by the national border and/or geographical coordinates.

(2) The service area of the transmission network operator is the territory of Estonia.

(3) A network operator shall have one service area consisting of one or more defined areas.

(4) The service areas of distribution network operators may not overlap.

§ 63. Modification of service area

(1) Distribution network operators may mutually agree to modify their service areas such that the territory covered by the service areas of such distribution network operators before the modification remains so covered after the modification.

[Repealed – RT 29.06.2018, 2 – entry into force 09.07.2018]

(2) Distribution network operators shall notify the Competition Authority of any modification to the service areas as specified in subsection 1 of this section and such notice shall include their mutual agreement on the modifications to the service areas. The notice shall contain information that enables the distribution network operators and the new boundaries of their service areas to be identified in accordance with section 62(1) of this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) The distribution network operators shall also give notice of any modification of the service area to consumers affected by the changes.

(4) Within thirty days from receipt of the notice specified in subsection 2 of this section, the Competition Authority shall concurrently make the corresponding amendments to the information concerning the service areas indicated in the decisions to issue authorizations to the distribution network operators.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) A modification of a service area shall become effective when the Competition Authority has concurrently made the corresponding amendments to the information concerning the service areas indicated in the decisions to issue authorizations to the distribution network operators and the consumers affected by the changes have been notified of the modifications.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) Distribution network operators shall notify consumers of any modifications to service areas in at least one daily newspaper of national circulation.

§ 64. Network owner

(1) If the owner of a network is not the network operator who holds an authorization for the provision of network services through the network which belongs to the owner, the network owner ensures that the network is used by a network operator who holds the necessary authorization and who is responsible for performance of the obligations of the network operator as provided in legislation and for compliance with the conditions of the authorization.

(1¹) A network operator in whose service there are consumers who have previously been connected to the network specified in subsection 1 of this section, must continue to provide the network services to those consumers under the same technical conditions, taking into account the state of repair and the capacity of the network which it has been given to use.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(1²) The network operator referred to in subsection 1¹ of this section bears the cost of assuming the use of the network described in subsection 1 of this section. If assuming the use of the network is technically not possible or not expedient, the network operator connects the consumer's installation connected to that network to its own network at its own expense.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(1³) If the network has been built in the period from 1 July 2003 to 30 June 2018 by a person other than a network operator holding a corresponding authorization, the cost of handing over the network to be used by the network operator referred to in subsection 1¹ of this section is borne jointly and severally by the owner of the network and the possessor of the network who uses the network to convey and sell electricity to the consumer. If handing over the network is technically not possible or not expedient, the network operator connects the consumer's installation connected to that network to its own network and the expenditures required for this are borne jointly and severally by the owner of the network and the possessor of the network.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(1⁴) If the network is built after 1 July 2018 by a person other than a network operator holding a corresponding authorization, the cost of handing over the network to be used by the network operator referred to in subsection 1¹ of this section is borne jointly and severally by the owner of the network and the possessor of the network who uses the network to convey and sell electricity to the consumer. The network operator is not obligated to assume the use of that network.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(1⁵) The owner of the networks described in subsections 1, 1³ and 1⁴ of this section ensures that electricity is conveyed to consumers who are connected to its network on the basis of a connection contract on the technical conditions agreed with the consumer until the use of that network is assumed by a network operator holding the relevant authorization. The owner of the network may interrupt the network connection only following the procedure set out in section 90 of this Act.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(2) If the owner of a network transfers the network to another person, the owner shall promptly notify the Competition Authority thereof. The names, personal identification codes or registration numbers in the commercial register and contact details of the transferor and transferee and information that makes it possible for the transferred network to be identified shall be set out in the notice.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) At the request of a network owner, the Competition Authority may release the network owner from the performance of the obligation specified in subsection 1 of this section if the network owned by the owner is located in the service area of another network operator and is not necessary for supplying electricity to consumers.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(4) The provisions of this section do not apply to closed distribution networks.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

Division 2

Obligations of network operator

§ 65. Provision of network services

(1) The network operator provides the following network services to the consumers, producers, line possessors or any other network operators within its service area:

1) on the basis of a corresponding request, connection to the network at the connection point of any electrical installation which conforms to the requirements and which is located in its service area;

2) on the basis of a corresponding request, amendment of the conditions of consumption or generation;

3) enabling a network connection to be used at the connection point;

4) transmitting electricity through its network to the connection point or from the connection point;

4¹) with regard to granting a connection to a generating installation or to modifying the conditions of generation or consumption in the micro isolated network located in the service area of the distribution network operator, the consumption demand required for the provision of network service is lacking;

[RT 29.06.2018, 2 – entry into force 09.07.2018]

5) ensuring the installation of a metering device conforming to the requirements of legislation to determine the amounts of electricity transmitted through its network;

6) ensuring the collection and processing of metering data;

7) provision of supplementary services directly related to the network services specified in points 1–6 of this subsection.

(2) The network operator observes the principle of equal treatment of market participants when providing network services.

(3) The network operator has the right to refuse to provide network services if:

- 1) the electrical installations of the user of network services do not conform to the requirements of legislation or to the technical conditions established by the network operator for connection to the network;
- 2) the provision of network services is not possible for any other reason due to the user of network services;
- 3) the provision of network services is not possible for reasons independent of the network operator;
- 4) the network of the network operator lacks the necessary transmission capacity for the provision of network services;
- 5) the corresponding right of the network operator arises on any other grounds provided in this Act.

(4) The network operator states the reasons for any refusal to provide a network service. The reasons must include a reference to the legal basis for the refusal. The network operator notifies the Competition Authority of its refusal to provide network services on the grounds set out in clauses 4 and 4¹ of subsection 3 of this section. [RT 29.06.2018, 2 – entry into force 09.07.2018]

(5) The minister responsible for the area makes regulations to establish quality requirements for network services and conditions for the reduction of network charges in the event that those quality requirements are violated. [RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(6) Establishment of the conditions for the reduction of network charges is based on the duration of power interruptions. [RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(7) The network operator publishes on its website information regarding the network services and their prices and regarding the manner in which consumers can access their consumption data. [RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(8) In the case that the consumer has expressed a corresponding request, the network operator communicates the consumption data of that consumer to him or her in accordance with the form for exchange of data set out in the network code on the functioning of the electricity market. [RT I, 29.06.2018, 2 – entry into force 27.04.2019; partially amended [RT I, 13.03.2019, 2]]

(9) The distribution network operator may terminate its activities only if it has assigned its obligations under this section to another distribution network operator having regard to the provisions of subsection 4² of section 91 of this Act. [RT 29.06.2018, 2 – entry into force 09.07.2018]

(10) At least 12 months prior to the termination of its activities, the distribution network operator must notify this to the Competition Authority in writing and to present an overview of the action plan that ensures compliance with the requirements provided in this section. [RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 66. Network development obligation

(1) The network operator develops the network within its service area such that the continued provision, in accordance with legislation and the conditions of the authorization, of network services to all consumers, producers, line possessors and any other network operators connected to the network is ensured having regard to their justified needs, and that electrical installations which meet established requirements and belong to market participants located within the service area of the operator can be connected to the network. When developing the network, the network operator acts with a view to the need to ensure the security of supply, to achieve efficiency and the integration of markets, having regard to the research conducted in these fields. [RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(2) By 15 April each year, a distribution network operator submits, to the Competition Authority and the transmission network operator, a written estimate that is as precise as possible, of the total prognosticated demand for usage capacity within its service area for each of the seven years following submission of the estimate. The distribution network operator also indicates the preconditions on which its estimate is based. [RT 29.06.2018, 2 – entry into force 09.07.2018]

(3) By 15 June each year, the transmission network operator submits to the Competition Authority a written estimate which is as precise as possible, of the total prognosticated demand for usage capacity in the entire transmission network for each of the seven years following submission of the estimate. The transmission network operator also indicates the premises on which its estimate is based. [RT 29.06.2018, 2 – entry into force 09.07.2018]

(4) Together with the estimate specified in subsections 2 and 3 of this section, the network operator submits a detailed written plan to the Competition Authority on how it intends to provide network services to satisfy the likely demand for usage capacity indicated in the estimate.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) If, on the basis of the estimate described in subsection 2 or 3 of this section or the plan specified in subsection 4 of the same, or in any other manner, the Competition Authority finds that the activities of a distribution network operator may prove insufficient in order to ensure the provision of network services in accordance with the justified needs of the users of network services, the Competition Authority communicates its position to the distribution network operator and the transmission network operator. The position must be substantiated.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) The distribution network operator and the transmission network operator submit their written opinion on the position of the Competition Authority to the Competition Authority within thirty days from receiving the Authority's position.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(7) Having regard to the substantiated positions expressed in the opinions specified in subsection 6 of this section, the Competition Authority decides whether the network operator must implement general measures in its network as a whole in the future, and which measures they should be, to ensure the provision of network services in accordance with the justified needs of the users of network services. If necessary, the Competition Authority issues a corresponding enforcement order to the network operator or amends the conditions of the authorization of the network operator.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

§ 66¹. Arrangements concerning the purchase of electricity in micro isolated networks

(1) In a micro isolated network, the producer invests in the production of electricity and the distribution network operator concludes agreements to ensure the security of investments, following the procedure provided in the Public Procurement Act, having regard to the principles provided in subsection 1 of section 1 of this Act.

(2) If, in a micro isolated network, the need arises to create additional generation capacity, or if the term of the agreement corresponding to subsection 1 of this section expires, the distribution network operator arranges the production of the electricity required, having regard to the requirements provided in the Public Procurement Act and in this section. Preference is given to electricity generated from a renewable energy source, taking into consideration the requirements of security of supply.

(3) In a micro isolated network, the distribution network operator and the producer of electricity may be one and the same person.

(4) If the distribution network operator arranges, in a micro isolated network, for the production of electricity by a producer subject to a production obligation, the conditions of the envisaged agreement must contain at least the following particulars:

- 1) the production capacity purchased;
- 2) the annual quantity of electricity to be purchased;
- 3) the term of the agreement;
- 4) the annual electricity consumption curve;
- 5) the requirements of security of supply;
- 6) the conditions on which costs that the network distribution operator may incur in the event of failure to meet the requirements of security of supply are to be covered.

(5) The provisions of this section do not exempt the distribution network operator from the obligation to submit network charges and standard terms to the Competition Authority for approval following the procedure provided in section 73 of this Act.

(6) The network operator publishes on its website the start and end dates of the agreements that it is party to and that have been referred to in subsection 4 of this section, together with the production capacity and the annual quantity of electricity to be purchased as reflected in those agreements.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 67. Metering

(1) A network operator shall ensure that the amounts of electricity supplied to and from its network are determined and that metering data are collected and then processed by means of metering devices conforming to the technical requirements established by legislation, in accordance with legislation and the contract for the provision of network services (metering).

(2) Remote reading devices are to be used in respect of market participants whose balance cannot be determined using a combination of metering and load duration curves pursuant to subsection 5 of section 46 of this Act.

(3) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(4) Technical requirements for metering devices used in respect of different groups of consumers and electricity undertakings are provided in the network code on the functioning of the electricity system.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(5) The network operator ensures that a user of network services is notified of the metering results and the calculation, on the basis thereof, of the charge for such network services in accordance with legislation and the relevant contract. The network operator also ensures that the seller is notified of the metering results in respect of users of network services who are connected to the network of the network operator to whom the seller sells electricity.

(6) In order to carry out metering within the service area of a network operator, the network operator may, at the request of a market participant or the seller who sells electricity to the market participant or on its own initiative, install a metering device which is technically more sophisticated than that prescribed for the market participant by this Act and the network code on the functioning of the electricity system, and carry out metering by means of that device. The person who made the request for the installation of a technically more sophisticated metering device reimburses to the network operator the cost of the metering device and the expenses associated with its installation as well as any reasonable extra expenses incurred in the collection and processing of metering data.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(7) The network code on the functioning of the electricity system provides rules for calculation of the amounts of electricity supplied to or from the network and for calculation of electricity losses between a metering device and the connection point if the metering of electricity amounts is carried out elsewhere than at the connection point.
[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

(8) The network operator may perform the obligations provided for in this section itself or authorize a third party in part or in full to perform such obligations.

§ 68. Illegal use of electricity or of network services

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(1) The use of electricity or network services is illegal if there is no legal basis for the use or if requirements arising from this Act are violated, in particular if:

- 1) the metering device is damaged or its reading is tampered with or the operation thereof is affected in another manner;
- 2) electricity is used without a valid contract between the network operator and the seller;
- 3) the seal or verification mark on the metering device or any other device preventing access to the metering device or preventing its operation from being interfered with or recording its operation is removed or damaged;
- 4) the connection to the network of a network operator lacks a metering device which conforms to the requirements and which has been installed by the network operator.

[RT I 2007, 23, 120 – entry into force 01.05.2007]

(1¹) The activity specified in clause 2 of subsection 1 of this section is not deemed illegal use of electricity or network services if:

- 1) the network operator and the seller regularly submit invoices to the consumer for network services and electricity used and the consumer has paid the invoices on time;
- 2) the consumer pays for network services and the electricity used at least once every three months if no invoices have been submitted;
- 3) the open supply contract of a market participant has been interrupted and the network operator to whose network the market participant's electricity installation is connected provides open supply to the market participant until the execution of a new contract.

[RT I 2010, 8, 40 – entry into force 27.02.2010]

(2) The market participant compensates the network operator for the cost of the electricity and network services used illegally and for the harm caused by the illegal use of electricity and network services and reimburses to the operator any reasonable expenses incurred in determining the extent of such harm.

[RT I, 28.06.2012, 1 – entry into force 01.07.2012]

(3) The minister responsible for the area makes regulations to establish the procedure for determining the amount of electricity and the volume of network services used without authorization and the cost of electricity and network services used illegally.

[RT I, 28.06.2012, 1 – entry into force 01.07.2012]

§ 69. Confidentiality requirement

(1) The network operator maintains the confidentiality of any information concerning the amounts of electricity generated or consumed by a market participant that it receives in the course of performing its functions. This provision does not apply if:

- 1) the information has already been made public or has become known in any manner other than through a breach of the obligations of the network operator;
- 2) the disclosure of such information to a third party is necessary for performance of the obligations of the network operator arising from this Act;
- 3) the network operator is required to disclose the information pursuant to legislation.

(2) The network operator observes the principle of equal treatment in publishing any information related to its work.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 70. Obligation to provide information

(1) The network operator provides the Competition Authority, at the latter's demand, with information necessary for the Competition Authority to perform the functions imposed on it by the law.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The network operator promptly notifies the Competition Authority of its merger, division, reorganization or dissolution or of the commencement of bankruptcy or liquidation proceedings in its regard, as well as of any other circumstances that may prevent the network operator from performing the obligations specified in legislation or arising from the conditions of the authorization.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) The technical conditions established by a network operator for connection to its network and the principles for calculating the charge payable for connection to the network and for amendment of consumption or generation conditions (hereinafter connection conditions) must be transparent and observe the principle of equal treatment.

(4) The network operator publishes on its website the connection conditions mentioned in subsection 3 of this section.

(5) The transmission network operator makes the connection conditions known to the European Commission.

(6) The network operator publishes basic information concerning the effectiveness, quality and profitability of its network activities on its website or in at least one daily newspaper of national circulation and also communicates such information to the Competition Authority.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(7) At the demand of the Estonian Defence Resources Office, the distribution network operator provides the information to be entered in the national register concerning support by Estonia as the host nation. The network operator provides the information without charge.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 70¹. Obligation to allow use of network infrastructure

(1) The distribution network operator is obligated to allow other undertakings to use its physical infrastructure, above all power poles, for the installation of an electronic communications network that offers broadband access services with a speed of at least 30 megabits per second. The distribution network operator has the right to recover the direct cost of offering access to its physical infrastructure, above all expenditure for repairs and for the elimination of malfunctions.

(2) The procedure for submitting requests to the distribution network operator and for ruling on those requests, as well as the grounds for refusing to grant the request and the procedure for resolving disputes are provided in Chapter 6¹ of the Building Code.

[RT I, 25.01.2017, 1 – entry into force 01.03.2017]

Division 3

Charges for network services

§ 71. Network charges

(1) The charges payable for network services provided by a network operator (hereinafter, 'network charges') are as follows:

- 1) a charge for connection to the network (hereinafter, 'connection charge');
- 2) a charge for amendment of the conditions of consumption or generation (hereinafter, 'charge for amendment of conditions');

- 3) a charge for ensuring the possibility to use a network connection (hereinafter, ‘charge for using a network connection’);
 - 4) a charge for the transmission of electricity (hereinafter, ‘transmission charge’);
 - 5) charges for extra services directly related to network services;
 - 6) charges for reactive power supplied to the network and acquired from the network.
- [RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(2) A network operator shall establish network charges in its service area in accordance with this Act and the legislation enacted on its basis.

(3) The criteria adopted by a network operator as the basis for establishing network charges shall be transparent and in compliance with the principle of equal treatment.

(4) When setting the rate of the network charges, the network operator observes Regulation (EC) No. 714/2009 of the European Parliament and of the Council and the requirements set out in Annex XI of Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, pp. 1–56), and has regard to need to ensure the security of supply, to achieve efficiency and to integrate markets as well as to the results of the research conducted in the relevant field.

[RT I, 05.07.2016, 3 – entry into force 15.07.2016]

(5) The rate of network charges must be established such that they ensure, on a consistent basis:

- 1) coverage of the necessary variable and operating expenses;
- 2) investments to meet operating and development obligations;
- 3) compliance with environmental requirements;
- 4) compliance with quality and safety requirements;
- 5) a justified return on the capital invested by the undertaking.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(5¹) Calculation of the justified return referred to in clause 5 of subsection 5 of this section is based on the capital invested by the undertaking and on the price of weighted average capital.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

4) it is possible for a network operator to perform the obligations arising from legislation and fulfil the conditions of the authorization, and to ensure a justified return on invested capital.

(6) A network operator shall set the transmission charge such that it guarantees market participants who have paid a connection charge and a charge for use of the network connection the possibility of transmitting electricity throughout the entire system.

(7) Network charges may differ from one network operator to another.

(8) The network charges of the transmission network operator must be sufficient to allow the operator to administer and, with a view to meeting the obligations imposed by law, to develop the data exchange platform described in section 42¹ of this Act.

[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

§ 72. Principles for calculating network charges

(1) Within the service area of a network operator, the transmission charge and the charge for the use of a network connection shall not depend on the location of the market participant.

(2) A network operator is entitled to distinguish the network charge for a network service from other conditions for the provision of the network service in relation to the level of voltage and security of supply, in accordance with the relevant provisions of this Act.

(2¹) In the case of infringement of quality requirements for the provision of network services the network operator is required to reduce the network charges for those services pursuant to the requirements of legislation established on the basis of section 65(5) of this Act.

[RT I 2004, 86, 583 – entry into force 01.01.2005]

(3) A network operator is entitled to distinguish categories of market participants and to apply different network charges and other conditions for the provision of network services for such categories in accordance with the relevant provisions of this Act.

(4) The Competition Authority prepares and publishes uniform methods, based on the weighted average cost of capital, for the calculation of the network charges mentioned in clauses 3–5 of subsection 1 of section 71 of this

Act and uses these as the basis when approving the network charges of network operators. The methods applied by the Competition Authority must have regard to the provisions of this section and of section 71.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(5) In order to reduce regional price differences that result from differing network charges, measures of support may be implemented pursuant to a resolution of the Government of the Republic to support the network operator or consumers.

(6) Calculation of the price of the network charges mentioned in clauses 3–5 of subsection 1 of section 71 of this Act is based on the average sales quantity of the last three calendar years. Where this is necessary, additional analysis is performed to ascertain the sales quantity.

(7) The price does not include the following expense items:

- 1) the expense of claims that are unlikely to be paid;
- 2) sponsorships, gifts and donations;
- 3) expenses that are not linked to the provision of the network service;
- 4) any fines or late charges imposed on the undertaking on the basis of legislation;
- 5) financial charges as a separate cost component, which are taken into account when calculating the price of weighted average capital;
- 6) other expenses that are not required in order to perform the obligations imposed on the undertaking by legislation.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(8) The expenses to be included in the price must be justified, must be based on cost effectiveness and must make it possible for the undertaking to perform the obligations provided by legislation. Justified operating expenses are evaluated on the basis of the following principles:

- 1) observation of the dynamic of the expense over time and its comparison with the dynamic of the consumer price index;
- 2) analysis of the justification of cost components together with expert assessments;
- 3) comparison of the undertaking's expenses and of the statistical indicators calculated on the basis of those expenses to the expenses of other similar undertakings.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(9) When calculating the justified return and the depreciation of fixed assets to be included in the price, only the fixed assets required for the provision of the network service are taken into account. The following are excluded from fixed assets:

- 1) long-term financial investments;
- 2) intangible assets, except software licences and rights of use of property;
- 3) fixed assets acquired in the framework of unrecoverable assistance and targeted financing;
- 4) fixed assets acquired for connection fees;
- 5) fixed assets that the undertaking does not use for the provision of the network service.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(10) The accounting of the value of fixed assets is performed on a continuous basis and continues through any change of undertaking or of asset ownership form.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(11) The justified return is calculated on the basis of the principle according to which the value of the fixed assets required for the provision of the network service, plus the operating capital component, is multiplied by the price of weighted average capital.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(12) The rate of the component of operating capital amounts to five percent of average turnover for the last three calendar years. Where this is necessary, additional analysis is performed to ascertain the operating capital component.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(13) With respect to the expenses to be included in the price, justified investments and expenses for realizing energy savings at the final consumer are taken into account in the amount of up to one percent of the average sales income for the last three calendar years, provided the following conditions have been met:

- 1) as a result of the investments and expenses, energy savings are realized at the final consumer within the meaning of clause 21 of section 3 of the Energy Sector Organization Act;
- 2) the energy savings have previously been evaluated in accordance with the regulation established under subsection 1 of section 18 of the Energy Sector Organization Act;
- 3) by 1 April each year, in accordance with the regulation established under subsection 1 of section 18 of the Energy Sector Organization Act, the undertaking assesses the energy savings realized as a result of the actions performed during the last three calendar years and submits a report regarding that assessment to the energy savings coordinator within the meaning of the Energy Sector Organization Act.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

(14) Calculation of the depreciation of fixed assets is based on the value of the fixed assets required for the provision of the network service and of the standard depreciation rate corresponding to the useful technical life of those assets.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 73. Approval of network charges and standard terms and conditions

(1) A network operator shall obtain approval from the Competition Authority for methods for the calculation of network charges specified in sections 71(1)(1) and 71(1)(2) of this Act, for network charges specified in points 3-6 of section 71(1) and for standard terms and conditions for the provision of network services. The requirement for approval does not apply to the transmission charge for the transit of electricity. When approving network charges, the Competition Authority shall amongst other things have regard to the provisions of sections 40, 44, 59, 71 and 72 above and to the relevant standard terms and conditions of the network operator.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The Competition Authority shall not grant approval to standard terms and conditions if the content thereof does not reflect the balance of rights and obligations of the network operator and a user of network services which was the basis for approval of the network charge or if a standard term or condition is unfairly prejudicial to the other party within the meaning of the Law of Obligations Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) A network operator is entitled to request the Competition Authority's approval of different network charges collectively as well as separately and the Competition Authority is obligated to determine such requests in accordance with this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(4) A network operator shall charge a fee for the network services it provides and the charge shall be calculated on the basis of the relevant network charges approved by the Competition Authority. This provision does not apply to connection to the network, amendment of the consumption or generation conditions or the transmission of electricity in the case of transit.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) Subsections 1–4 of this section are applied in respect of the network operator who provides network service through a closed distribution network if this is demanded by a commercial consumer whose electrical installation is connected to the closed distribution network.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 74. Provision and publication of information

(1) A network charge established by a network operator shall become effective on the date determined by the network operator after its publication in at least one daily newspaper of national circulation, provided that at least ninety days have passed since publication. This provision does not apply to the connection charge, the charge for the amendment of conditions and the transmission charge for the transit of electricity.

(2) A network operator shall publish a notice concerning amendment of the standard terms and conditions for the provision of its network services or concerning the establishment of new standard terms and conditions in at least one daily newspaper of national circulation and at least thirty days before the amendments or new standard terms and conditions become effective.

(3) At the request of a market participant, a network operator shall provide the market participant with information concerning the rates of the network charges and the standard terms and conditions for the provision of network services which apply in its service area.

(4) A network operator shall promptly notify the European Commission and the Competition Authority of any request for the transmission of electricity by transit on the basis of an electricity sale contract entered into for a term of more than one year.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) In the case of receiving a corresponding request, the network operator shall promptly commence negotiations over the conditions for the transmission of electricity by transit and shall notify the European Commission and the Competition Authority if the negotiations do not lead to the conclusion of a contract within twelve months as of the submission of the request.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

Chapter 6¹ SUPPORT FOR PAYMENT OF CONNECTION CHARGE

§ 74¹. – 74¹⁴.

[Repealed - RT I, 30.06.2015, 4 - entry into force 01.09.2015]

Chapter 7 SALE

§ 75. Sale arrangements

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 75¹. Invoice presented to the consumer

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(1) The seller presents an invoice for the electricity consumed to the customer once a month, unless agreed otherwise with the customer. The following information is presented together with the invoice:

- 1) [Repealed – RT I, 12.07.2014, 3 – entry into force 01.07.2015]
- 2) the proportion of electricity purchased from a power exchange in the financial year preceding the period of the sale;
- 3) a reference to a website which sets out information concerning the environmental impact caused by emissions of CO₂ and SO₂, the oil shale ash that must be deposited, and radioactive waste, which were released in the course of producing the electricity supplied by the seller during the financial year preceding the period of the sale;
- 4) information concerning the customer's rights and the options for resolution of disputes;
- 5) starting 1 April, the volume of electricity which was supplied in the previous calendar year and whose origin was certified by means of guarantees of origin;
[RT I, 12.07.2014, 3 – entry into force 22.07.2014]
- 6) the volume of supplied electricity whose origin is not certified by means of guarantees of origin, using the residual mix value published by the transmission network operator.
[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(1¹) When, following the procedure provided in the grid code, the network operator rectifies the measurement data of a market participant on the data exchange platform, the seller presents a rectifying invoice to the market participant, stating the reason for rectification on the invoice.
[RT 29.06.2018, 2 – entry into force 09.07.2018]

(2) In the case of a change of seller, the seller presents its final invoice to the customer within six weeks as of the termination of the contract for the sale of electricity. If, after the final invoice has been submitted, a fault of the metering system is discovered or the submitted data differs from the actual consumption, the consumer's metering data are rectified on the information exchange platform and the seller presents an invoice to rectify the final invoice.

(3) No additional fee is charged for presenting the invoice.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(4) The seller undertakes to employ the services of an auditor to ensure that the invoice issued to the consumer for the electricity supplied, and any other advertising materials that are referred to in subsection 1 of this section and that are disseminated by the seller, reflect the correct distribution of the energy sources used in the generation of electricity during the financial year that preceded the period of the sale. The role of the auditor is to verify whether the volume of renewable energy used (a percentage value) stated by the seller in the information it presents to the consumers is supported by guarantees of origin that have been notified to the transmission network operator as guarantees of origin used for certifying to the consumers the origin of the electricity supplied.
[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

§ 76. Selling obligation

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 76¹. Universal service

(1) A small consumer is entitled to purchase electricity from the network operator to whose network his or her electrical installation is connected, for a price which is reasonable and justified and which conforms to the principle of equal treatment (hereinafter, 'universal service').

(2) A network operator shall provide universal service itself or, in the case that it does not engage in the sale of electricity, it shall designate a seller who holds an authorization, to provide that service.

(3) In the case that the network operator does not itself provide universal service, such operator shall publish on its website the name and contact information of the seller who provides that service in the service area of the operator and shall provide the same information to any person who requests it.

(4) It is not obligatory to provide universal service to a consumer whose network contract, entered into pursuant to section 83 of this Act, has been cancelled on a ground provided in this Act.

(5) In the case that a small consumer has not entered, in accordance with section 83 of this Act, into an electricity contract with any seller of electricity, that consumer shall be provided universal service as of the day following the day of termination of his or her electricity contract.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012, applicable since 1 January 2013.]

§ 76². Standard terms and conditions of universal service

(1) A network operator or a seller designated by the network operator shall obtain the approval of the Competition Authority for standard terms and conditions of universal service. The Competition Authority shall not approve the standard terms and conditions if a standard term contravenes this Act or if the content or manner of expression or of presentation of the term is unusual or difficult to understand within the meaning of subsection 3 of section 37 of the Law of Obligations Act, or if the term is unfairly prejudicial to the other party within the meaning of section 42 of the Law of Obligations Act.

(2) A network operator and the seller designated by the network operator shall publish on their website the standard terms and conditions referred to in subsection 1 of this section and shall provide information concerning these to any person who requests it.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012, subsection 2 applicable since 1 January 2013.]

§ 76³. Price of electricity sold by way of universal service

(1) The provider of universal service shall calculate the price, for a given calendar month, of electricity sold by way of universal service on the basis of the weighted average of the hourly amounts of electricity sold by way of universal service in that calendar month correlated with the hourly prices of electricity published at the power exchange. Justified expenses related to the provision of universal service and a reasonable operating margin shall be added to the price calculated in this manner.

(2) The provider of universal service shall calculate the charge for the universal service on the basis of metered amounts of electricity consumption. In the case that the network operator does not possess metered data concerning a small consumer's consumption of electricity during the previous calendar month, the operator shall make an estimate of the amount of electricity required for the provision of universal service on the basis of a consumption schedule. In the case that accurate information is subsequently received, and if the estimated amount differs from the metered amount, the network operator shall set off the account on the invoice for the next month.

(3) The provider of the universal service shall publish on its website, by the ninth day of the following month, the price of electricity sold by way of universal service together with the data and method of calculation used to arrive at the price.

(4) The rules for setting off amounts of electricity consumed by way of universal service, for the exchange of information in relation to universal service and for providing information to small consumers shall be established in the network code on the functioning of the electricity market.

[RT I, 29.06.2018, 2 – entry into force 27.04.2019]

§ 76⁴. Sale of electricity in micro isolated networks

(1) Once a month at the latest on the 15th day of the month the distribution network operator in whose service area the micro isolated network is located presents to the producer subject to the production obligation referred to in section 55¹ of this Act the data concerning the quantity of electricity taken from the network and the quantity of electricity fed into the network separately for each open supplier holding an open supply contract.

(2) If the total quantity of electricity taken from the network and of electricity fed into the network at all metering points of the market participants of the micro isolated network is greater than zero, the open supplier that concluded electricity sale contracts with those participants purchases electricity from the producer subject to the production obligation.

(3) If the total quantity of electricity taken from the network and of electricity fed into the network at all metering points of the market participants of the micro isolated network is less than zero, the producer subject to the production obligation purchases electricity from the open supplier that concluded electricity sale contracts with the market participants of the micro isolated network.

(4) The fee for the electricity referred to in subsections 2 and 3 of this section is calculated on the basis of hourly rates of the power exchange.

[RT 29.06.2018, 2 – entry into force 09.07.2018]

§ 77. Disclosure of information on seller

[Repealed - RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 78. Performance of selling obligation

[Repealed - RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 79. Unbundling of selling obligation

[Repealed - RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 80. Standard terms and conditions applicable to selling obligation

[Repealed - RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 81. Price of electricity sold within framework of selling obligation

[Repealed - RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 81¹. Submission of information to Statistics Estonia

An electricity undertaking shall submit information concerning the setting of the price of electricity or of network services to Statistics Estonia pursuant to the procedure established in the Official Statistics Act.

[RT I 2010, 41, 241 – entry into force 01.08.2010]

§ 81². Preservation of data

A seller shall preserve for at least five years from the date of transaction, and submit to the Competition Authority and the European Commission if this is needed, the following data concerning all electricity transactions with another seller and with the transmission network operator, as well as concerning all transactions based on derivatives which are related to electricity and whose underlying asset is electricity:

- 1) the date of the transaction and the terms and conditions of supply and of payment;
- 2) the amount of the transaction;
- 3) the date and time that the transaction was performed, by trading period;
- 4) the price of the transaction;
- 5) the particulars of the buyer;
- 6) details concerning supply agreements.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 81³. The database of wholesale energy market transactions

[Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 82. Import of electricity

(1) Electricity may be imported by the system operator or by a power exchange trader. A power exchange trader may only import electricity for sale at the power exchange.

(2) A power exchange trader who intends to import electricity may request an assessment from the system operator regarding whether the intended import of electricity is permissible considering the technical parameters of the system.

(3) An importer of electricity who is not a balance provider shall enter into an open supply contract with the balance provider in order to maintain its balance.

(4) The system operator shall be entitled to restrict or interrupt the import of electricity if this is required by the technical limitations of the system or the need to ensure security of supply.

(5) The system operator may refuse to provide network services for the import of electricity if the importer of electricity fails to comply with the requirements established in the legislation concerning the import of electricity.

(6) Every three months, the system operator shall communicate to the European Commission information concerning the amounts of electricity actually fed into the system from third countries.
[RT I 2010, 8, 40 – entry into force 27.02.2010]

Chapter 8 CONTRACTS

§ 83. Application of provisions

(1) The provisions of this Chapter apply to contracts which are made with a network operator for connection to its network and for amending the consumption or generation conditions (hereinafter, 'connection contracts'), to contracts which are made for the provision of any other network services (hereinafter, 'network contracts') and to contracts entered into for the sale of electricity (hereinafter, 'electricity contracts').

(2) Derogation from the provisions of this Chapter is permitted by agreement of the parties. Any agreement to make a derogation which is detrimental to a consumer who is a natural person is void.

§ 84. Form of contract

(1) Electricity contracts may be made by oral agreement. If a party to an electricity contract so requests, the contract shall be made in writing, in a form which allows reproduction in writing or in electronic form.

(2) Connection contracts and network contracts shall be made in writing, in a form which allows reproduction in writing or in electronic form.

(3) A network operator may enter into separate network contracts with consumers regarding different network services.

(4) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 85. Submission of information

(1) Prior to entering into a connection contract, network contract or electricity contract, the party to the contract who is a consumer and a natural person shall be provided with information concerning the material terms and conditions of the contract and any possible alternatives in terms of its content.

(2) It is not necessary to provide the information specified in subsection 1 of this section if the contract is made by oral agreement or if the consumer does not wish to be given such information.

(3) If, by agreement with a network operator, a seller also arranges settlement of accounts for the network services provided by the network operator under a network contract, the seller shall present a separate invoice for the network services provided or shall distinguish the relevant date related to network services in the invoice issued on the basis of the electricity contract.

§ 86. Written confirmation

(1) If an electricity contract is not made in writing, in a form allowing reproduction in writing or in electronic form, the distribution network operator or seller shall, after entering into the contract, send a written document to the consumer confirming the content of the contract (hereinafter, 'written confirmation'). Written confirmation shall be sent to a consumer who is a natural person within two weeks from the making of the contract.

(2) A written confirmation shall state the period of time during which the consumer may present objections. The period of time shall not be less than three weeks.

(3) During the period from the making of a contract to the expiry of the period of time specified in subsection 2 of this section or until objections are submitted within that period, the parties shall observe the terms and conditions set out in the written confirmation, unless agreed otherwise.

(4) The Law of Obligations Act applies to written confirmation insofar as it is not regulated by the provisions of this section.

§ 87. Terms and conditions of contract

(1) A connection contract, network contract or electricity contract executed in writing, in a form allowing reproduction in writing or in electronic form shall include the following information:

- 1) the name, registration number in the Commercial Register, address and other contact details of the network operator in the case of a network or connection contract or of the network operator or the seller in the case of an electricity contract;
- 2) a description of the services provided on the basis of the network or connection contract or the principal parameters of the electricity sold on the basis of the electricity contract;
- 3) the principal parameters of the quality of the services provided on the basis of the network or connection contract or a reference to a document which is accessible and which sets out such parameters;
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]
- 4) the time of initial connection to the network pursuant to a connection contract entered into for connection to the network or for amendment of the consumption or generation conditions;
- 5) a description of the maintenance services provided;
- 6) the manner of obtaining relevant information concerning the charges payable on the basis of the contract;
- 7) the conditions for amendment of the contract and of the conditions for the provision of services on the basis of the contract, and the conditions for cancellation of the contract, including the conditions for cancelling the contract without charge;
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]
- 8) if the services provided on the basis of a network or connection contract do not conform to the terms and conditions of the respective contract, information concerning the way in which the consumer may obtain a refund or compensation in the manner of a payment or any other manner;
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]
- 8¹) in the case that the delivery of an invoice submitted on the basis of a network or electricity contract is delayed, or where an incorrect invoice is submitted due to an error of the network operator or seller, or in the case of an advance payment by the consumer, information concerning the way in which the consumer may obtain a refund, set-off or compensation in the manner of a payment or any other manner;
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]
- 8²) at least two different payment options in the case of charges payable under a contract;
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]
- 9) information concerning the procedure for dealing with complaints;
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]
- 10) in the case of a network or electricity contract, the term of the contract.

(2) If an electricity contract is not made in writing, in a form allowing reproduction in writing or in electronic form, the information specified in subsection 1 of this section shall be provided in the written confirmation to be issued by the distribution network operator or the seller subject to section 86 of this Act.

§ 88. Validity and term of contract

(1) A network contract or an electricity contract may be made for an unspecified term or for a specified term. A connection contract is made for establishing a network connection as defined in the contract or for amendment of the consumption or generation conditions of an existing network connection, and shall terminate upon being performed.

(2) An electricity contract which is made for an unspecified term shall terminate upon termination of the network contract entered into in respect of the network connection through which electricity was sold on the basis of the electricity contract.

(3) An electricity contract may be entered into by a market participant who holds a valid network contract in respect of the metering point of his place of consumption.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 89. Amendment of contract

(1) The network operator may unilaterally amend the standard terms and conditions of a network contract and the network operator or a seller designated by the network operator may unilaterally amend the standard terms and conditions of universal service if such amendments are objectively justified and necessary in order to take into account a change in the circumstances and provided the amendments have been approved by the Competition Authority. The Competition Authority shall not grant its approval to amendments to standard terms and conditions if the content, wording or presentation of a standard term or condition is uncommon or unintelligible within the meaning of section 37(3) of the Law of Obligations Act or if a standard term or condition is unfairly prejudicial to the other party within the meaning of section 42 of the Law of Obligations Act.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(2) A network operator may unilaterally amend the network charge or any other charge set out in the network contract if such amendment has been approved by the Competition Authority.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(3) The amendment of the standard terms and conditions specified in subsection 1 of this section shall apply to all contracts which are valid at the time of amendment and which are entered into subsequently.

(4) A network operator or a seller shall notify consumers prior to amending the terms and conditions of a contract. The notice shall set out the envisaged amendments, the basis for the envisaged amendments and the

date on which they are intended to take effect, as well as information concerning the fact that the consumer is entitled to cancel the contract if he does not agree to the amendments.

(5) The notice specified in subsection 4 of this section shall be provided to the consumer together with the invoice presented to him or her at least thirty days before the envisaged amendments are to take effect.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(6) [Repealed - RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 90. Interruption of network connection for reasons due to the consumer

(1) The network operator may interrupt the consumer's connection to the network if the consumer has failed to pay the amount payable for the network service or universal service provided to the consumer or for the open supply provided by the network operator to the consumer in the event of an interruption in the open supply chain, or if the consumer has otherwise materially breached an obligation arising from the network contract.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(2) Before interrupting the network connection on the grounds specified in subsection 1 of this section, a notice concerning the interruption shall be sent to the consumer at the address of the place of consumption or the address stated in the contract. The notice shall state the grounds for interrupting the network connection, the scheduled time of the interruption and information regarding the rights of the consumer and the options available for the resolution of disputes.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(3) If the consumer is a natural person, the notice specified in subsection 2 of this section shall be sent by registered post.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(4) The network connection of the consumer may be interrupted provided the consumer has failed to eliminate the circumstances which serve as grounds for the interruption, or fails to notify the network operator of the elimination, within fifteen days after the notice specified in subsection 2 of this section was sent.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(5) Where the failure of a consumer who is a natural person to pay an amount payable for the network service or universal service provided to him or her is due to his or her temporary insolvency which was brought about as a result of his or her serious illness or loss of employment, the consumer may notify the network operator of such circumstances in writing. The corresponding notice must include evidence certifying the circumstances.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(6) After receiving the notice and the evidence referred to in subsection 5 of this section, the network operator may interrupt the network connection of a consumer who is a natural person provided the consumer has failed to eliminate the circumstances which serve as grounds for the interruption, or fails to notify the network operator of the elimination, within 30 days after the notice specified in subsection 2 of this section was sent.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(7) If a consumer who is a natural person has failed to pay the amount charged for the network service or universal service provided to the consumer, that consumer's network connection may, during the period from 1 October to 30 April and in a building or part of a building which constitutes a dwelling and which is used as a permanent residence and heated exclusively or primarily by electricity, or in which the use of electricity is unavoidable for the functioning of the heating system that exclusively or primarily uses another fuel source, be interrupted provided the consumer has, within 90 days after the notice specified in subsection 2 of this section was sent, failed to eliminate the circumstances which serve as grounds for the interruption, or fails to notify the network operator of the elimination.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(8) It is not contrary to subsection 7 of this section for the network operator to install and use a special protective device to limit the capacity of the network connection of a consumer if the consumer has failed to pay the amount payable for the network service or universal service provided to that consumer, or has otherwise materially breached an obligation arising from the network contract. The consumer shall be given at least 15 days' notice of such a limitation following the procedure provided in subsections 2 and 3 of this section.
[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(9) It is not contrary to subsections 1–7 of this section for the network operator to promptly interrupt the network connection of a consumer if the consumer:

- 1) increases without permission the capacity limited following the procedure set out in subsection 8 of this section;
- 2) uses electricity or network services illegally within the meaning of section 68 of this Act;
- 2¹) feeds electricity into the network without a contract concluded with the network operator;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

3) uses electrical installations which do not meet established requirements, which are dangerous or which interfere with the operation of the network as a whole or which jeopardize the security of supply.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(10) The interruption of the network connection on the grounds provided in this section shall not release the consumer from the obligation to pay the charges set out in the connection contract, electricity contract and network contract.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(11) The network operator shall be entitled to demand reimbursement from the consumer for justified expenses incurred in implementing the measures provided in this section.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(12) The provisions of subsections 1, 2 and 8–11 of this section also apply to interruption of a network connection and limitation of the capacity of the network connection of a producer, line possessor or another network operator.

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(13) The provisions of this section also apply to the cases in which electricity is conveyed and sold in accordance with clause 1 or 2 of subsection 6 of section 15 of this Act.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 91. Cancellation of network contract

(1) A network operator may cancel a network contract and disconnect the place of consumption from the network if:

1) the network connection has been interrupted by the network operator due to a breach of the network contract and the interruption has lasted at least 180 consecutive days and the other party to the contract has failed, during that period, to eliminate the circumstances which served as grounds for the interruption and has not commenced consumption of electricity;

2) the other party to the contract has materially breached the obligations arising from the network contract and has failed to remedy the breach within a reasonable period of time granted by the network operator, in view of which the network operator cannot reasonably be expected to continue performing the contract.

(2) A network operator is entitled to cancel a network contract due to failure to pay an amount payable according to the contract entered into with the network operator or seller exclusively on the grounds provided in clause 1 of subsection 1 of this section.

(3) A network operator shall give notice of the cancellation of a network contract at least thirty days in advance. The notice shall set out the grounds for cancellation of the contract and the date of termination of the contract.

(4) If the consumer is a natural person, the notice specified in subsection 3 of this section shall be sent by registered post.

(4¹) A network operator may cancel the network contract before the agreed due date or before the notice period specified in subsection 3 of this section has expired, if the place of consumption stipulated in the contract has been the subject of a transfer of property and there is no legal basis for the consumer to use that place.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(4²) The distribution network operator whose service area includes an immovable that the operator owns, and who terminates its activities within the meaning of subsection 9 of section 65 of this Act and wishes to continue to convey and sell electricity on the conditions set out in clause 1 of subsection 6 of section 15 to a consumer located on that immovable, may cancel the network contract concluded with that consumer provided a corresponding arrangement has been reached.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5) A person who has entered into a network contract with a network operator may not cancel the contract if a valid electricity contract entered into with another person exists in respect of the network connection that is the subject matter of the network contract and if the other person has not entered into a network contract regarding the network connection.

(6) A consumer may cancel a network contract made for a specified term or for an unspecified term provided he gives at least 30 days' notice of the intention to cancel. This provision shall not apply in the case specified in subsection 5 of this section.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(7) Any agreement which derogates from the provisions of this section is void.

§ 92. Cancellation of electricity contract

(1) A seller shall be entitled to cancel an electricity contract if:

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

1) the consumer has materially breached obligations arising from the contract and has not remedied the breach within a reasonable period of time granted by the seller;

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

2) [repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

3) the consumer has used electricity illegally or has intentionally or due to gross negligence damaged the seals or verification marks placed on the metering devices;

[RT I, 28.06.2012, 1 – entry into force 01.01.2013]

4) [repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(2) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(3) A consumer shall be notified of the cancellation of an electricity contract at least thirty days in advance. The notice shall state the grounds for cancellation of the contract and the date of termination of the contract.

(4) If the consumer is a natural person, the notice specified in subsection 3 of this section shall be sent by registered post.

(4¹) A seller may cancel an electricity contract before the agreed due date, or before the notice period specified in subsection 3 of this section has expired, if the place of consumption stipulated in the contract has been the subject of a transfer of property and there is no legal basis for the consumer to use that place.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(5) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

(6) [Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

Chapter 8¹ **BUILDING A WIND POWER PLANT** **ON A PUBLIC WATER BODY**

[RT I 2010, 8, 37 - entry into force 27.02.2010]

§ 92¹. Superficies licence

(1) In order to build a wind power plant on a public water body, a superficies licence as defined in subsection 1 of section 217 of the Water Act must be obtained from the Consumer Protection and Technical Regulatory Authority.

[RT I, 22.02.2019, 1 – entry into force 01.10.2019]

(2) In addition to information and documents required by the Water Act, a superficies licence application must include information concerning the potential capacity of the wind power plant and must be accompanied by an endorsement from the network operator regarding the technical conditions for connection to the transmission network.

[RT I, 29.06.2018, 2 – entry into force 27.02.2010]

§ 92². Persons who may be authorized to build a wind power plant on a public water body

A superficies licence to build a wind power plant on a public water body may only be granted to an electricity undertaking within the meaning of this Act or to an undertaking which belongs to the same group with an electricity undertaking within the meaning of section 2(3) of the Competition Act. The superficies licence may only be assigned to another electricity undertaking, another undertaking belonging to the same group with an electricity undertaking or to the Republic of Estonia.

[RT I 2010, 8, 37 – entry into force 27.02.2010]

§ 92³. Amount of superficies charge for a wind power plant built on a public water body

(1) For a wind power plant that has been built on a public water body, the electricity undertaking pays an annual superficies charge to the State, which amounts to 7 percent of the price determined on the basis of average value of production land in Estonia, calculated on the basis of the surface area of the land built upon. The average value of land is determined on the basis of the results of a regular valuation of the land conducted pursuant to the Land Valuation Act. The surface area of built-upon land that supports the wind power plant also includes distances of up to 1000 metres between individual wind turbines that comprise the power plant, as well as the

surface area of built-upon land that supports the civil engineering works required for servicing the wind power plant. The distance between wind turbines is calculated on the basis of the width dimension of the turbines.

(2) The superficies charge during the period from the time the building permit is issued to the time the wind power plant is to begin its operation according to its intended purpose amount to 10 percent of the rate established in subsection 1 of this section. The superficies charge is to be paid in full from the moment the wind power plant begins its operation according to its intended purpose. The time that the wind power plant begins its operation according to its intended purpose is the time the wind power plant feeds electricity into the network for the first time.

(3) The provisions of section 231 of the Water Act apply to the payment of the superficies charge.
[RT I, 22.02.2019, 1 – entry into force 01.10.2019]

Chapter 8²

COOPERATION MECHANISM FOR PROMOTING THE PRODUCTION OF RENEWABLE ENERGY

[RT I, 29.06.2018, 2 - entry into force 09.07.2018]

§ 92⁴. Statistical transfers of energy

(1) The State may carry out statistical transfers of energy produced from a renewable energy source to another Member State of the European Union and conclude, for that purpose, the relevant agreement, having regard to the obligation of achieving the proportion, in the final consumption, of energy produced from a renewable energy source as provided Directive 2009/28/EC of the European Parliament and of the Council.

(2) The agreement is notified to the European Commission at the latest three months after the end of the year during which that agreement is in effect. The relevant notification must include information concerning the amount of statistically transferred energy that was the subject of the agreement, the particulars of the parties to the agreement and the cost of the agreement. The statistical transfer of energy takes effect after notification has been made to the European Commission.

(3) The transmission network operator transmits to the minister responsible for the area the information required for concluding the agreement.

(4) The sums paid under the agreement by another Member State of the European Union are received by the transmission network operator and are, except where the agreement on the cooperation mechanisms of renewable energy provides otherwise, deducted from the cost of funding, in the next calendar year, the transmission network operator's support to be awarded under subsection 4 of section 59² of this Act for electricity produced from a renewable energy source and for electricity produced in an efficient co-generation process.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 92⁵. Cooperation projects with other Member States

(1) Energy that has been produced from a renewable energy source by a new generating installation that is located in Estonia and that, for the first time, commenced operation after 25 June 2009, or that has been produced by capacity that was added after 25 June 2009 as a result of renovation of a generating installation located in Estonia, may be subtracted from the amount of energy produced from a renewable energy source that is taken into account when assessing attainment of the objectives provided in respect of Estonia in Annex I of Directive 2009/28/EC of the European Parliament and of the Council, and added to the amount of energy produced from a renewable energy source that is taken into account when assessing attainment of the objectives provided in the same Annex in respect of the other Member State participating in the cooperation project.

(2) Generating installations that may not participate in cooperation projects are:

- 1) installations that produce electricity for which the producer is paid the support provided in this Act for electricity produced from a renewable energy source;
- 2) installations that produce electricity for which the producer, for the period provided in section 108 of this Act, has been paid the support provided in this Act for electricity produced from a renewable energy source;
- 3) installations for the building or renovation of which the State has granted the producer investment support that the owner of the installation does not reimburse to the State.

(3) The cooperation project may not interfere with the attainment of the proportion of energy produced from a renewable energy source as provided in Annex I of Directive 2009/28/EC of the European Parliament and of the Council.

(4) The producer notifies its wish to participate in a cooperation project to the Ministry of Economic Affairs and Communications. The notification must contain:

- 1) a description of the envisaged or renovated generating installation, or of a generating installation undergoing renovation;
- 2) the name of the other Member State of the European Union that participates in the cooperation project and the contact details of the competent authority;
- 3) the time period in calendar years during which the amount of energy that is produced from a renewable energy source and that constitutes the subject of the cooperation project is to be added to the amount of energy produced from a renewable energy source that is taken into account when assessing attainment of the objectives provided in respect of the other Member State of the European Union participating in the cooperation project in Annex I of Directive 2009/28/EC of the European Parliament and of the Council;
- 4) the amount of energy produced from a renewable energy source by a generating installation mentioned in clause 1 of this subsection, as an absolute value by calendar years or as a proportion of the energy that is produced by means of that generating installation and that is taken into account when assessing attainment of the objectives provided in respect of the other Member State of the European Union participating in the cooperation project in Annex I of Directive 2009/28/EC of the European Parliament and of the Council;
- 5) where this is possible, confirmation by the competent authority of the other Member State of the European Union, as referred to in clause 2 of this subsection, to the effect that that Member State agrees to the content of the notification and wishes to present to the European Commission the joint notice referred to in subsection 6 of this section on the conditions indicated in that notification.

(5) In justified cases, the minister responsible for the area may demand supplementary particulars in addition to the particulars provided in subsection 4 of this section.

(6) After it has received the notification referred to in subsection 4 and the supplementary particulars referred to in subsection 5 of this section, the minister responsible for the area makes a proposal to the competent authority of the relevant Member State of the European Union to present to the European Commission a joint notice, containing the particulars provided in subsection 4, with respect to the cooperation project.

(7) If the Member State of the European Union agrees to the proposal referred to in subsection 6 of this section, or has agreed to the content of the proposal in accordance with clause 5 of subsection 4, the minister responsible for the area, together with the competent authority of the relevant Member State, presents to the European Commission a joint notice, containing the particulars provided in subsection 4, with respect to the cooperation project.

(8) The support provided in this Act for electricity produced from a renewable energy source will not be paid for the amount of energy that is to be added to the amount of energy produced from a renewable energy source which will be taken into account when assessing attainment of the objectives provided in respect of the other Member State of the European Union participating in the cooperation project in Annex I of Directive 2009/28/EC of the European Parliament and of the Council.

(9) Within three months after the end of each calendar year falling in the period referred to in clause 3 of subsection 4 of this section, the minister responsible for the area notifies to the European Commission and to the Member State referred to in clause 2 of subsection 4 the amount of energy produced from a renewable energy source by the generating installation mentioned in clause 1 of subsection 4 during the last calendar year, and the amount of energy that is to be added to the amount of energy produced from a renewable energy source which will be taken into account when assessing attainment of the objectives provided in respect of the other Member State of the European Union participating in the cooperation project in Annex I of Directive 2009/28/EC of the European Parliament and of the Council.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

Chapter 9

STATE SUPERVISION

§ 93. State supervision

[RT I, 06.05.2014, 2 – entry into force 01.07.2014]

(1) State supervision over compliance with this Act and the legislation enacted under it, including the operation of the electricity market and the activities of market participants, shall be exercised by the Competition Authority.

(2) The Competition Authority co-operates with the Agency for the Cooperation of Energy Regulators of the European Union (hereinafter, 'the Cooperation Agency') and other regulatory authorities of its Member States. Where this is needed, the Competition Authority enlists independent experts to assist it in its enforcement work, and co-operates with other Estonian regulatory enforcement authorities.

(3) The Competition Authority is independent in its exercise of the functions entrusted to it by virtue of this Act.

(4) Supervision over the provision of network services, of offers or sale of electricity or of making electricity available in the market in another manner is exercised by the Consumer Protection and Technical Regulatory Authority within the scope of the competence vested in it by the Consumer Protection Act.
[RT I, 12.12.2018, 3 – entry into force 01.01.2019]

(4¹) Supervision over the requirements provided in section 21² of this Act is exercised by the Rescue Board.
[RT I, 10.11.2016, 1 – entry into force 01.01.2017]

(5) In the case of a dispute which has arisen in relation to a connection contract, network contract or electricity contract, and which the parties have been unable to settle, the consumer is entitled to file a complaint with the Consumer Disputes Commission or another person or body or court which deals with similar complaints.

(6) In addition to that provided in subsection 1 of this section, the Competition Authority performs the following functions:

1) verifying compliance with the conditions provided in Regulation (EC) No 714/2009 of the European Parliament and of the Council and in regulations of the Commission established under that Regulation;
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

1¹) scrutinizing compliance with Regulation (EU) No 1227/2011 of the European Parliament and of the Council;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

2) the monitoring of investments in production capacity and, having regard to considerations of security of supply, where necessary, requiring the system operator to hold the invitation to tender referred to under subsection 4¹ of section 4 of this Act;

3) monitoring and verifying the conduct of the invitation to tender provided for under subsection 4¹ of section 4 of this Act;

4) resolving disputes between market participants following the procedure provided in this Act;

5) disseminating through its website the network operators' network charges that it has approved in accordance with this Act;

6) issuing decisions of approval in accordance with this Act;

7) verifying whether the distribution network operator complies with the requirements set out under section 18 of this Act;

8) scrutinizing the justifications for the expenditure incurred by the transmission network operator mentioned in subsection 4 of section 59² of this Act;

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

9) verifying whether the price of the electricity sold in the framework of the open supply referred to in subsection 4² of section 44 of this Act is justified;

10) verifying the information that is provided by the seller to the consumer under section 75¹ of this Act;

11) verifying whether the price of electricity sold by way of provision of universal service complies with section 76³ of this Act;

12) verifying the issue, transfers and validity of the guarantees of origin described in section 58¹ of this Act;

13) verifying the prices of balancing electricity set by the system operator;

14) verifying whether the transmission charges applied by the network operator for the transit of electricity, as well as the operator's connection charges and charges for the amendment of conditions are in conformity with sections 71-73 of this Act;

15) in its annual report, stating its opinion regarding the report drawn up by the system operator in accordance with subsection 7 of section 39 of this Act, taking into account whether the report of the system operator is in conformity with the Community-wide network development plan referred to in subparagraph (b) of paragraph 3 of Article 8 of Regulation No 714/2009 of the European Parliament and of the Council, and issuing recommendations concerning the amendment of the system operator's investment plan, if needed;

16) monitoring technical cooperation between the transmission network operators of the member states of the European Union and of third countries;

17) engaging in cooperation with counterpart authorities of other member states in order to link up the information exchange platforms of the electricity market of the region;

18) monitoring the situation concerning market opening and competition, including the prices on the power exchange and the prices set for household customers, and publish, at least once a year, recommendations concerning the setting of the prices of electricity sold to household customers;

19) monitoring the time that it takes network operators to build connections and to perform repairs;

20) monitoring the level of transparency of the electricity market, including the transparency of wholesale prices in the electricity market;

21) ensuring that no cross-subsidization occurs between the activities of transmission, distribution and sale;

22) ensuring that no anti-competitive contractual practices are engaged in, including the prohibition to purchase the fixed supply from several sellers at the same time;

23) ensuring that consumers are granted speedy access to their consumption data without charge;

24) in order to perform its functions, and without prejudice to its independence and specific competence, engaging in cooperation with the transmission network operator and, should this be needed, with other relevant authorities. No approval issued by the Competition Authority in accordance with this Act in any way limits the Authority in the subsequent exercise of its powers;

- 25) submitting to the European Commission a report on market dominance among electricity undertakings and on predatory and other anti-competitive behaviour, changes in ownership, measures taken to enhance competition, and the potential effects on domestic and international competition of the measures taken to comply with the obligation of providing universal service;
- 26) notifying the European Commission of the decision to issue the authorization to the transmission network operator, and publishing that decision in the Official Journal of the European Union;
- 27) annually drawing up, publishing on its website and transmitting to the European Commission, to the energy regulators of member states and to the Cooperation Agency a report on the measures implemented to perform the functions of the Competition Authority and on the results that those measures have attained;
- 28) in accordance with Article 3 of Regulation No. 256/2014 (EU) of the European Parliament and of the Council, transmitting to the European Commission the information described under subsection 5 of section 19 of this Act;
- 29) disseminating through its website information concerning the rights of consumers, the relevant legislation and the possibilities of dispute resolution.

(7) The Competition Authority decides on applications for approval submitted to it in accordance with this Act within 90 days from the submission of the application. When processing a particularly complex application or an application that involves a considerable amount of work, the Competition Authority may extend this term to 180 days. The person who submitted the application must be notified of the extension of the term before the expiry of the initial term.

(8) The running of the term provided in subsection 7 of this section is suspended until such time as the information that the Competition Authority has demanded and that is necessary for deciding on the application is submitted to the Authority.

(9) In situations where the network charge is not justified or the network charge has not been set and the network operator does not comply with the enforcement order issued by the Competition Authority, the Competition Authority may establish temporary network charges or a temporary methodology of calculating network charges. The network charges or methodology for calculating network charges established by the Competition Authority remain in force until such time as the network operator obtains, in accordance with section 73 of this Act, the approval of the Competition Authority for the new network charge. The surplus profits which the network operator earned while applying the unjustified network charge are, taking into account the network operator's ability to continue as a going concern, deducted from its justified sales revenue on the next occasion, or if necessary, also subsequent occasions of approving network charges.

(10) The Competition Authority prepares and publish on its website by 31 July each year an overview concerning the previous calendar year which reflects the following:

- 1) the rules of allocation of capacity of intersystem connections;
- 2) the rules for resolving congestions in the system;
- 3) the time spent on construction and repair of cross-border interconnectors;
- 4) the information published by network operators concerning cross-border interconnectors and distribution of the capacity of the network, taking into account the need to maintain business secrets;
- 5) the unbundling of activities referred to in section 16 of this Act;
- 6) the connection conditions established for new producers;
- 7) the performance of obligations by the system operator and network operators;
- 8) the competition situation in the electricity market.

[RT I, 06.05.2014, 2 – entry into force 01.07.2014]

§ 94. Special measures of state supervision

[RT I, 06.05.2014, 2 – entry into force 01.07.2014]

(1) When exercising the state supervision provided for in this Act, the Competition Authority may apply the special measures of state supervision provided in sections 30, 50 and 51 of the Law Enforcement Act on the grounds and following the procedure provided in that Act.

(2) When exercising the state supervision provided for in this Act, the Rescue Board may apply the special measures of state supervision provided in sections 30, 32, 49, 50 and 51 of the Law Enforcement Act on the grounds and following the procedure provided in that Act.

[RT I, 10.11.2016, 1 – entry into force 01.01.2017]

§ 94¹. Functions of Competition Authority in assessing compliance with established requirements of incumbent transmission system operator

(1) The Competition Authority shall monitor the compliance of the transmission system operator with the requirements established in section 18¹ of this Act and shall, pursuant to section 26¹, initiate an assessment of compliance of the transmission system operator with established requirements when:

- 1) it has received the information described in section 16(4) of this Act;
- 2) it has become aware that an envisaged change in the rights or influence of a person who enjoys control over the transmission system operator may result in infringement of the requirements established in section 18¹ of this Act or when it has reason to believe that such infringement has already taken place;
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]
- 3) it has become aware of circumstances which permit a citizen of a third country or a legal person incorporated and registered in a third country to acquire control over the transmission system operator;
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]
- 4) the European Commission has submitted a reasoned request.

(2) The Competition Authority shall immediately inform the European Commission of circumstances which permit a person from a third country to acquire control over the transmission system operator, and of the fact that the transmission network owner or transmission network operator controlled by a person from a third country has applied for the authorization named at clause 3 of subsection 1 of section 22 of this Act.
[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(3) Where the procedure of assessment of compliance with established requirements of the transmission network operator is initiated under circumstances named in clause 3 of subsection 1 of this section, the Competition Authority shall require proof from the transmission network operator that the activity of the transmission network operator or of the person controlling the transmission network operator does not jeopardize the security of supply of the Republic of Estonia or the European Union.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(4) In assessing the security of supply referred to in subsection 3 of this section, the Competition Authority shall take into account:

- 1) the rights and obligations which the European Union has in respect of the relevant third country and which emanate from international law, including security of supply agreements entered into with one or more third countries and which the European Union is a party to;
- 2) the rights and obligations which the Republic of Estonia has in respect of the relevant third country and which emanate from the agreements entered into with the third country as long as they do not conflict with the law of the European Union;
- 3) other circumstances related to the assessment of compliance with established requirements and to the relevant third country.

(5) If the Competition Authority makes a negative decision in respect of the assessment of the compliance with established requirements that has been initiated under circumstances described in clause 3 of subsection 1 of this section and that decision differs from the opinion of the European Commission, the Competition Authority shall publish its decision in the Official Journal together with the reasons for the decision and with the opinion of the European Commission.

[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

§ 94². Special rules regarding state supervision

The Competition Authority may, under the conditions set out in section 50 of the Law Enforcement Act, only enter the market participant's premises, rooms or civil engineering works.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 95. Enforcement orders

(1) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(2) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(3) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) In the event of failure to perform an obligation imposed by an enforcement order, a penalty payment may be imposed pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payments Act. The upper limit for a penalty payment is 1,300 euros. In the event of failure to comply with the requirements established in section 18¹ of this Act, the upper limit for a penalty payment to be applied in respect of the transmission network operator is nine million euros, and the total amount of penalty payments which may be imposed in order to achieve the goal prescribed in the enforcement order may not exceed nine million euros.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

(5) [Repealed – RT I, 29.06.2014, 1 – entry into force 01.07.2014]

§ 96. Obligation to provide information

[Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 97. Obligation to maintain confidentiality of information

[Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 98. Right of access

[Repealed – RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 99. Resolution of complaints

(1) A market participant may file a written complaint with the Competition Authority against the action or omission of another market participant which is in conflict with this Act or the legislation established on its basis.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The Competition Authority shall review a complaint specified in subsection 1 of this section and make a decision thereon within thirty days from receipt of the complaint. In the case of a complaint in respect of a network operator, the Competition Authority shall make its decision within 60 days from receipt of the complaint.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(3) If the Competition Authority requests information necessary for resolving a complaint, the run of the term specified in subsection 2 of this section shall be suspended until receipt of such information, but not for longer than thirty days. In the case of a complaint in respect of a network operator, the Competition Authority may suspend the term for up to 60 days, provided the complainant agrees to this.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 100. Acquisition of property in the public interest

(1) In addition to the grounds set out in subsection 1 of section 3 of the Immovables Expropriation Act, the Competition Authority may demand:

[RT I 2007, 66, 408 – entry into force 01.01.2008]

1) expropriation of the assets used in the activity described in the authorization, if the person operating on the basis of the authorization fails to comply with the enforcement order to continue the activity;

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

2) expropriation of the assets used in the activity described in the authorization, if the period of validity of the authorization has expired or the authorization has been revoked and there is no guarantee that the activities carried out on the basis of those assets will continue to be in compliance with this Act, which may possibly endanger the security of supply of the system;

3) expropriation of the network and the limited real right which grants the person the use of the network, if the owner of the network fails to perform the obligation provided in subsection 1 of section 64 of this Act or if the network operator who owns or uses the network does not hold the authorization required under this Act.

(2) The Competition Authority may demand expropriation on the grounds provided in subsection 1 of this section only if it has given advance notice of its intention to demand expropriation to the owner of the assets which are the subject matter of the envisaged expropriation and if the owner of the assets has failed to eliminate the circumstances which serve as grounds for the expropriation within a reasonable period of time set by the Competition Authority.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) The Competition Authority does not have the obligation set out in subsection 2 of this section if performance of the obligation may endanger security of supply.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(4) Expropriation shall be carried out pursuant to the procedure provided in the Immovables Expropriation Act.

§ 100¹. Regulating cross-border exchanges in electricity

(1) The Competition Authority shall co-operate and shall exchange information which is necessary for performing the functions provided in this Act with regulatory authorities of the member states of the European Union and with the Co-operation Agency in order to:

- 1) facilitate optimum administration of the network;
- 2) promote the establishment of a common power exchange;
- 3) optimise the distribution of cross-border capacities;
- 4) by mutual connection of networks, achieve such a level of capacity which allows to promote competition and improve the security of supply, at the same time avoiding unequal treatment of market participants;
- 5) co-ordinate the elaboration of network codes;
- 6) co-ordinate the elaboration of congestion management requirements.

(2) The Competition Authority shall use the information to be exchanged with the same degree of confidentiality to which that information was subjected by the authority that provided it.

(3) The Competition Authority may request the opinion of the Co-operation Agency concerning conformity to Directive 2009/72/EC of the European Parliament and of the Council and to Regulation (EC) No 714/2009 of the European Parliament and of the Council, of a decision taken by the regulatory authority of another member state of the European Union with regard to cross-border exchanges in electricity.

(4) In the case that the decision taken in the regulatory authority of another member state regarding cross-border exchanges in electricity is incompatible with the requirements provided in Directive 2009/72/EC of the European Parliament and of the Council or Regulation (EC) No. 714/2009 of the European Parliament and of the Council, the Competition Authority shall be entitled to notify this to the European Commission within two months from the day the decision was made.

(5) If the European Commission should require that a decision of the Competition Authority concerning cross-border exchanges in electricity be annulled for reasons of incompatibility with Directive 2009/72/EC of the European Parliament and of the Council or Regulation (EC) No. 714/2009 of the European Parliament and of the Council, the Competition Authority shall comply with the requirement within a period of two months and shall notify such compliance to the Commission.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

Chapter 10

LIABILITY

§ 101. Breach of obligation to provide network services

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 101¹. Violation of quality requirements for network services provided

(1) Violation of the quality requirements for network services provided in the service area of a network operator by the network operator or failure to reduce network charges following a violation of those requirements, if reduction of the network charges is prescribed in this Act, is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3,200 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 101². Sale of electricity at unapproved ceiling prices or at prices exceeding the approved ceiling price

[Repealed – RT I, 28.06.2012, 1 – entry into force 01.01.2013]

§ 101³. Violation of rules of cross-border exchanges in electricity

Failure by a legal person to comply with the conditions for cross-border exchanges in electricity provided in Regulation (EC) No 714/2009 of the European Parliament and of the Council is punishable by a fine of up to 32,000 euros.

[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 101⁴. Violation of the requirements of wholesale energy market

(1) Failure to comply with the requirements established in Articles 3–5 of Regulation (EC) No 1227/2011 of the European Parliament and of the Council is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

§ 101⁵. Liability of the system operator and of a vertically integrated undertaking

Violation, by the system operator or a vertically integrated undertaking, of the requirements provided in subsections 1, 3 and 4 of section 16, in sections 17 and 18¹, in subsection 3 of section 38, in subsections 1, 3¹, 4 and 6 of section 39, in subsection 7 of section 40 and in sections 40¹, 53, 66, 70, 71, 72, 73 and 74 of this Act is punishable by a fine of up to ten percent of the turnover of the undertaking for the last audited financial year.

[RT I, 30.06.2017, 2 – entry into force 10.07.2017]

§ 102. Illegal use of network services and electricity

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 103. Failure to provide information

(1) Failure by a market participant to provide mandatory information to the Competition Authority or the system operator is punishable by a fine of up to 100 fine units.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) The same act, when committed by a legal person, is punishable by a fine of up to 1,300 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 104. Prevention of exercise of the right to access

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 105. Violation of obligation to maintain confidentiality of information

(1) Violation of the obligation to maintain the confidentiality of information as prescribed by this Act is punishable by a fine of up to 300 fine units.

(2) The same act, when committed by a legal person, is punishable by a fine of up to 3,200 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 106. Procedure

Extrajudicial proceedings concerning the misdemeanours defined in this Chapter shall be conducted by the Competition Authority.

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

Chapter 11 IMPLEMENTING PROVISIONS

§ 107. Market licence and authorization

(1) A market licence issued under the Energy Act to a network operator for the sale of electricity and for the sale of the services of electricity transmission and distribution through the network, as well as the contract made with the government in relation to the market licence shall remain in effect for the aforementioned areas of activity until the expiry date indicated therein.

(2) Market licences issued to a network operator under the Energy Act and contracts made with the government in relation to such licences shall become invalid in respect of electricity-related areas of activity not listed in subsection 1 of this section if a correctly completed application for the issue of an authorization is not submitted within the term set out in subsection 5 of this section or if the Competition Authority makes a decision refusing to issue an authorization on such application. With the entry into force of this Act, all contracts entered into with the government by an undertaking that is not a network operator and market licences which have been issued to an undertaking that is not a network operator shall become invalid in respect of electricity-related areas of activity.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(3) The market licence or contract entered into with the government which remains in effect in accordance with subsection 1 of this section is deemed an authorization issued for the activities named at points 2 and 6 of subsection 1 of section 22 of this Act. The market licence issued for the provision of transmission services through the transmission network and the contract entered into with the government in relation to such licence is deemed an authorization issued for the activity named at clause 3 of subsection 1 of section 22 of this Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

(4) If any condition of a market licence or a contract entered into with the government is contrary to this Act or the legislation established on its basis, the Competition Authority shall unilaterally amend the conditions of the market licence or the contract entered into with the government within ninety days as of the entry into force of this Act, in accordance with the provisions of this Act regarding the amendment of conditions of authorizations. Until the conditions are amended by the Competition Authority, the provisions of this Act and of the legislation established on its basis shall apply instead of the corresponding conditions of the market licence or clauses of a contract entered into with the government in the case that the conditions of the licence or clauses of the contract are contrary to this Act or the legislation established on its basis.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) If, at the time of entry into force of this Act, a market participant is engaged in an electricity-related area of activity not specified in subsection 1 of this section for which an authorization is required pursuant to this Act,

the market participant shall within 180 days from the entry into force of this Act submit a correctly completed application to the Competition Authority in order to obtain the corresponding authorization.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) An authorization for conveying electricity via a producer's line shall be deemed an authorization for conveying electricity via a direct line.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(7) The transmission network operator shall bring its activity into conformity with the requirements established in section 181 of this Act by 1 May 2013 at the latest. The authorization issued to the transmission network operator before 1 March 2013 shall remain valid until 1 March 2014 on the conditions stipulated in that authorization.
[RT I, 28.06.2012, 1 – entry into force 01.03.2013]

§ 107¹. Electricity contracts made pursuant to the obligation to sell

An electricity contract entered into on the basis of a network operator's obligation to sell referred to in subsection 1 of section 76 of the version of this Act which was in force through 31 December 2011 shall terminate on 31 December 2012.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 108. Eligibility period of support

(1) The support mentioned in subsection 2 of section 59 and in section 59⁴ of this Act may be paid for 12 years from commencement of production. The support referred to in section 59 for electricity produced from a renewable energy source by a generating installation that commenced operation before 1 January 2002 may be paid until 31 December 2012.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1¹) [Repealed – RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(1²) A producer who starts generation after 31 December 2010 with a generating installation that uses biomass as its energy source shall be eligible for the support specified in section 59(1)(1) of this Act only for electricity generated in an efficient co-generation process.
[RT I 2010, 8, 40 – entry into force 27.02.2010]

(2) A producer who uses wind as the source of energy and whose generating installation commenced operation before 31 December 2007 may sell the electricity produced by such installation as open supply to a seller designated by the transmission network operator at a price which is 115 cents for a kilowatt-hour until 31 December 2008.
[RT I 2007, 23, 120 – entry into force 01.05.2007]

(3) For the purposes of this section, the day of commencement of production is deemed to be the day on which a generating installation that meets established requirements for the first time feeds electricity into the network or a direct line.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

(4) If the producer has received support under section 59 of this Act for electricity produced by a generating installation for 12 years and that installation is replaced by another generating installation, support will not be paid for the electricity generated by the other generating installation.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5) If the producer is, at the latest on 31 December 2018, receiving support under section 59 of this Act for electricity produced by a generating installation, support under section 59 will be paid for the electricity produced by a generating installation replacing that installation until 12 years have passed since commencement of production by the replacing installation. Support for capacity that exceeds the capacity of the installation replaced is subject to support only in the event of winning the reverse auction in accordance with sections 59⁴, 59⁵ or 59⁶ of this Act.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) If support has been paid under section 59 of this Act for electricity produced by a generating installation and, by the time of replacement, that generating installation is older than 25 years, support for electricity produced by the generating installation replacing the old installation, in the event of winning the reverse auction mentioned in sections 59⁴, 59⁵ or 59⁶ of this Act, will be paid starting from commencement of electricity production by the new generating installation.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(7) For electricity produced by a supplementary generating installation built as an add-on to an existing generating installation after 31 December 2018, provided the electrical installations of the existing and supplementary generating installations share the connection point with the network of the network operator,

support will only be paid in the event of winning the reverse auction in accordance with sections 59⁴, 59⁵ or 59⁶ of this Act. The building of a supplementary generating installation does not affect the payment of support for electricity produced within the extent of the capacity of the existing generating installation, or the period of payment of that support.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(8) Support under section 59, for electricity produced by the relevant generating installation of a producer that meets at least one of the conditions mentioned in subsection 2² of section 59 of this Act, or for a stage of the generating installation stipulated in the relevant connection contract, will be paid for 12 years starting from commencement of production of electricity by each generating installation, or each stage of the generating installation.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 108¹. Combining various measures of support

A producer whose power plant or generating installation consists of several electricity-producing electrical installations has the right to choose, separately for each electrical installation, whether, in respect of the electricity generated by that installation, the producer is paid support on the basis of the support measure established in section 59, 59⁴, 59⁵ or 59⁶, or on the basis of the cooperation agreement concluded under section 92⁵. The exercise of the right of election is subject to the condition that the electricity produced by each installation be metered separately by a metering device that conforms to the requirements set out in legislation, and access to the metering data of which is ensured to the network operator, the transmission network operator and to the line possessor.

[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

§ 109. Implementation of measures of support

The measures of support specified in section 72(5) of this Act may be implemented retroactively as of 1 January 2002.

§ 109¹. Implementation of support for connection charge

[Repealed - RT I, 30.06.2015, 4 - entry into force 01.09.2015]

§ 110. Determination of service areas

(1) A network operator as defined in the Energy Act who, at the time of the entry into force of this Act, holds a valid market licence which has been issued pursuant to the Energy Act for the sale of electricity and/or the sale of electricity distribution services through a network shall submit a written application to the Competition Authority within 180 days after the entry into force of this Act for the determination of its service area. When submitting the application, the network operator must base it on the conditions of the market licence issued to it pursuant to the Energy Act, on the contract entered into with the government and on the actual situation in terms of the provision of network services. The application shall contain a description and layout of the service area in accordance with the requirements of sections 62(1) and 62(3) of this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(2) In the event of failure to perform the obligation specified in subsection 1 of this section, the Competition Authority shall issue an enforcement order to the network operator to obtain performance of the obligation and shall warn the network operator that, in the event of failure to comply with the order, coercive measures may be applied with respect to the network operator in accordance with the Substitutive Enforcement and Penalty Payments Act. The upper limit of the penalty payment is 1,300 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) Within 180 days as of the due date for the submission of applications specified in subsection 1 of this section, the Competition Authority shall, concurrently, determine the service areas of distribution network operators on the basis of applications submitted by the latter in accordance with the requirements, taking into account the conditions of the market licences issued to the distribution network operators, the conditions of the contracts entered into with the government pursuant to the Energy Act, the actual situation in the provision of network services and the requirements established for distribution network operators and their activities by this Act.

[RT I 2007, 66, 408 – entry into force 01.01.2008]

(4) If the service areas determined pursuant to subsection 3 of this section do not cover the entire territory of Estonia, the Competition Authority shall designate the territory not covered by a service area as the service area of the distribution network operator whose service area is adjacent to the territory not covered by a service area.

In doing so, the Competition Authority shall take into consideration, amongst other things, the location of the existing network in relation to the territory not covered by a service area.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(5) The Competition Authority is authorized to demand that electricity undertakings provide it with the information necessary to make the decisions provided in this section.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(6) The Competition Authority shall inform the distribution network operators of the service areas determined pursuant to this section and shall, if necessary, amend the conditions of the market licences of the distribution network operators and the contracts they have made with the government, in accordance with the provisions of this Act.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(7) The Competition Authority shall promptly give notice to a network operator specified in subsection 1 of this section for whom the Competition Authority does not determine a service area on the basis of subsection 3 of this section stating that a service area has not been determined. The market licence of the network operator and the contract entered into with the government by the network operator shall become invalid when ninety days have passed from the dispatch of the notice stating that a service area has not been determined.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

(8) The Competition Authority is authorized to impose an obligation on a network operator specified in subsection 7 of this section to continue its activities in accordance with section 37 of this Act and/or to initiate, in accordance with section 100 of this Act, the expropriation of the network or any other assets used by the network operator in the activity carried out pursuant to the market licence.
[RT I 2007, 66, 408 – entry into force 01.01.2008]

§ 110¹. Recourse to universal service

(1) If a small consumer has not entered into an electricity contract with any seller of electricity by 1 January 2013, universal service shall be provided to the consumer starting this date.

(2) Standard terms and conditions of universal service apply to all network contracts which remain effective after 1 January 2013.

(3) Sections 76¹, 76²(2) and 76³ of this Act shall apply as of 1 January 2013.

(4) A network operator shall, prior to 1 January 2013, together with the invoice, present its consumers with information concerning standard terms and conditions of the universal service referred to in section 76²(1) of this Act.
[RT I, 28.06.2012, 1 – entry into force 08.07.2012]

§ 111. Development plan for electricity sector

(1) The first development plan for the electricity sector, as specified in section 2(1) of this Act, is to be prepared and submitted to the Government of the Republic by 1 June 2005.
[RT I 2007, 23, 120 – entry into force 01.05.2007]

(2) The analysis specified in section 2(1)(5¹) of this Act is to be prepared for the first time in 2007.
[RT I 2007, 23, 120 – entry into force 01.05.2007]

§ 111¹. Reports to the European Commission

(1) The system operator submits the report referred to in section 39(7) of this Act every second year, not later than by 31 July. The first report shall be submitted by 31 July 2007.

(2) The Competition Authority submits the report referred to in section 93(6)(25) of this Act by 1 September every year. As of 2010, the report is submitted every second year.
[RT I, 06.05.2014, 2 – entry into force 01.07.2014]

§ 111². Special provisions governing applications for superficies licences

If at the request of the undertaking referred to in section 92² of this Act an environmental impact assessment has been undertaken before 1 January 2009 in order to build a wind power plant on a public water body, subsections 3-5 of section 219 of the Water Act shall not apply to the procedure for granting a superficies licence and the procedure of superficies licence shall be initiated with respect to the undertaking who requested the environmental impact assessment.
[RT I, 22.02.2019, 1 – entry into force 01.10.2019]

§ 111³. Other implementing provisions

(1) The electricity undertakings are to bring their operations into compliance with the requirement set out in section 87(1)(8¹) by 1 November 2014 at the latest.
[RT I, 06.05.2014, 2 – entry into force 07.05.2014]

(2) Starting 1 July 2015, the sellers include in their invoices the information described at points 5 and 6 of subsection 1 of section 75¹ of this Act.
[RT I, 12.07.2014, 3 – entry into force 22.07.2014]

(3) The condition provided in clause 4 of subsection 2 of section 591 of this Act applies to producers who commenced the production or feeding into the network or direct line of electricity after 31 December 2018.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(4) Contracts for the purchase of electricity concluded before 1 January 2018 in micro isolated networks between the producer subject to a production obligation and the distribution network operator are deemed effective until the date on which they expire.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(5) Subsection 1 of section 64 of this Act applies only if the network has been created before 1 July 2003.
[RT I, 29.06.2018, 2 – entry into force 09.07.2018]

(6) The authorization issued in respect of the sale of electricity becomes invalid after presentation of the notice of economic activity conforming to section 22¹ of this Act.⁷

§ 112.–§ 118.[Omitted from this text.]

§ 119. Entry into force of this Act

(1) This Act shall enter into force on 1 July 2003.

(2) Sections 15, 16 and 18 of this Act shall enter into force on 1 January 2005.

(3) Sections 4(5), 29(6), 70(5), 74(4) and 74(5) of this Act shall enter into force by virtue of a separate Act upon the accession of Estonia to the European Union.

(4) Subsections 6¹- 6³ of section 58 of this Act shall enter into force on 1 May 2005.
[RT I 2004, 86, 583 – entry into force 01.01.2005]

¹Directive 2009/72/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.08.2009, pp. 55–93); Directive 2001/77/EC of the European Parliament and of the Council on the promotion of electricity produced from renewable energy sources in the internal electricity market (OJ L 283, 27.10.2001, pp. 33–40); partially Directive 2009/28/EC of the European Parliament and of the Council on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 05.06.2009, pp. 16–62); Council Directive 90/377/EEC concerning a Community procedure to improve the transparency of gas and electricity prices charged to industrial end-users (OJ L 185, 17.07.1990, pp. 16–24); Directive 2004/8/EC of the European Parliament and of the Council on the promotion of cogeneration based on a useful heat demand in the internal energy market and amending Directive 92/42/EEC (OJ L 52, 21.02.2004, pp. 50–60); Directive 2005/89/EC of the European Parliament and of the Council concerning measures to safeguard security of electricity supply and infrastructure investment (OJ L 33, 04.02.2006, pp. 22–27) [RT I, 28.06.2012, 1 - entry into force 08.07.2012]