

Republic of Latvia
Cabinet
Regulation No. 839
Adopted 23 December 2014

Procedures for Determining the Amount of the Penalty in Electricity and Natural Gas Supply

*Issued pursuant to
Section 47, Paragraph six of the Electricity Market Law and
Section 105, Paragraph six of the Energy Law*

I. General Provisions

1. This Regulation prescribes:
 - 1.1. the procedures by which the Public Utilities Commission (hereinafter – the Regulator) shall determine the amount of the penalty for non-conformity with the requirements laid down in the Electricity Market Law and the Energy Law;
 - 1.2. the procedures by which the net turnover of the financial year shall be determined for the calculation of the amount of the penalty;
 - 1.3. the circumstances to be taken into account by the Regulator in calculating the amount of the penalty;
 - 1.4. the cases when the penalty may be reduced.
2. This Regulation shall apply to the electricity system operator, electricity system owner, electricity producer, electricity trader and electricity market participant, as well as natural gas system operator, natural gas trader and market participant (hereinafter – the merchant).

II. Procedures for Determining the Net Turnover of the Financial Year

3. The penalty shall be calculated in percentage from the net turnover of the previous financial year of the merchant in energy sector prior to the day when non-conformity with the requirements laid down in the Electricity Market Law or the Energy Law (hereinafter – violation) was detected. The last closed financial year shall be perceived as the previous financial year in this Regulation.
4. If the violation has been committed by a branch of a foreign merchant, the penalty shall be calculated in percentage from the net turnover of the previous financial year of the foreign merchant in energy sector.
5. If the violation has been committed by a natural person who is a performer of economic activity in energy sector, the penalty shall be calculated in percentage from the revenue of the previous financial year, which was earned by the natural person in energy sector of the economic activity.
6. If the merchant does not have an approved report of the previous financial year, the penalty shall be calculated in percentage from the net turnover of the merchant in energy sector for the last full 12 calendar months until the day when the violation was detected.

7. If from the day of commencing the activity until the day when the violation was detected less than a year has passed, the penalty shall be calculated in percentage from the net turnover of the merchant in energy sector, counting from the day when activity was commenced until the last full month prior to the day when the violation was detected.

8. If the net turnover of the previous financial year of the merchant is expressed in foreign currency, the total amount of the penalty in euros shall be determined according to the foreign currency exchange rate to be used in accounting on the day when the violation was detected.

III. Amount of the Penalty

9. In determining the amount of the penalty, the Regulator shall evaluate the consequences caused by the violation and the duration of the violation.

10. If the violation has not directly affected the transparency of the electricity market or natural gas market and the level of competition therein, including cross-border trade in electricity or natural gas, and the possibility of electricity or natural gas users to receive continuously and safely supplied electricity or natural gas in the requested quality for justified prices, and due to the violation the merchant or vertically integrated merchant has not derived direct or indirect benefit or revenue, the penalty shall be determined up to 0.15 per cent from the net turnover of the previous financial year of the merchant in energy sector.

11. If the violation has directly or indirectly affected the transparency of the electricity market or natural gas market and the level of competition therein, including cross-border trade in electricity or natural gas, and the possibility of electricity or natural gas users to receive continuously and safely supplied electricity or natural gas in the requested quality for justified prices, and due to the violation the merchant or vertically integrated merchant has not derived direct or indirect benefit or revenue, the penalty shall be determined up to 1.5 per cent from the net turnover of the previous financial year of the merchant in energy sector.

12. If the violation has directly or indirectly affected the transparency of the electricity market or natural gas market and the level of competition therein, including cross-border trade in electricity or natural gas, and the possibility of electricity or natural gas users to receive continuously and safely supplied electricity or natural gas in the requested quality for justified prices, and due to the violation the merchant or vertically integrated merchant has derived direct or indirect benefit or revenue, the penalty shall be determined from 0.15 up to 10 per cent from the net turnover of the previous financial year of the merchant in energy sector.

13. Taking into account the duration of the violation, the amount of the penalty in percentage from the net turnover of the previous financial year of the merchant in energy sector shall be determined as follows:

13.1. if the duration of the violation does not exceed a year, the amount of the penalty determined in accordance with Paragraphs 10, 11 and 12 of this Regulation shall not be increased;

13.2. if the violation has been going on for more than a year, but does not exceed five years, the amount of the penalty shall be determined up to 0.5 per cent;

13.3. if the violation has been going on for more than five years, the amount of the penalty shall be determined up to 1 per cent.

14. The Regulator may reduce the total amount of the penalty, if at least one of the following circumstances exists:

14.1. the violation has been discontinued as soon as the merchant received information from the Regulator regarding the potential violation;

14.2. the merchant has voluntarily eliminated the consequences of the violation before the Regulator took a decision to detect a violation;

14.3. the merchant has provided proof upon its initiative, which are of significance in detecting the violation;

14.4. the merchant reimburses the losses to a person, which have been incurred to the person due to the violation committed by the merchant.

15. The circumstance when the merchant hinders investigation or is hiding the violation committed shall be considered as a circumstance aggravating the violation.

16. The total amount of the penalty for one violation shall be calculated within the borders laid down in laws and regulations, summing up the penalties determined in accordance with Paragraph 10, 11 or 12 and Paragraph 13 of this Regulation and taking into account the circumstances referred to in Paragraph 14 or 15 of this Regulation.

17. If the merchant has committed several violations and they are reviewed concurrently in one case, the amount of the penalty for each violation shall be determined individually. The final amount of the penalty shall be calculated within the scope of such penalty, which has been determined for the most serious violation.

Prime Minister

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