**Decision No. 1/10 of the Board of the Public Utilities Commission**

Adopted 2 July 2020

**Regulations Regarding the Examination of the Discrepancies on the Deposit Packaging Management Fee**

*Issued pursuant to*

*Section 18.18, Paragraphs three and twenty of the Packaging Law*

**I. General Provision**

1. The Regulations (hereinafter – the Regulation) Regarding the Examination of Discrepancies on the Deposit Packaging Management Fee (hereinafter – the discrepancies) prescribe:

1.1. the information to be indicated in the submission on the examination of the discrepancies and the documents to be submitted;

1.2. the information to be included in the explanation of the defendant;

1.3. the procedures for the examination of the discrepancies;

1.4. the amount of the fee for the examination of the discrepancies, the procedures and time period for the payment.

**II. Submission on the Examination of the Discrepancies and the Explanation of the Defendant**

2. A submitter shall indicate the following information in the written submission (hereinafter – the submission) to the Public Utilities Commission (hereinafter – the Regulator) on the examination of the discrepancies:

2.1. regarding the submitter – the name, registration number and legal address;

2.2. regarding the defendant – the name, registration number and legal address;

2.3. a description of the facts;

2.4. the subject of the discrepancies arising from the abovementioned facts and the claim of the submitter;

2.5. the justification for the submission and other arguments related to the discrepancies;

2.6. an indication that the parties involved in the discrepancies have not turned to a court or court of arbitration for the examination of the discrepancies.

3. The submitter shall append written materials and evidence to the submission justifying the subject of the discrepancies and the claim of the submitter.

4. Submitting the submission to the Regulator does not suspend the application of the deposit packaging management fee.

5. The Regulator shall not examine the discrepancies and shall, in accordance with the Law on Submissions, provide a reply signed by the Chair of the Regulator if conformity with at least one of the following conditions is determined:

5.1. in accordance with the Law on Submissions, there are no grounds for the examination of the discrepancies;

5.2. the submission has not been submitted in compliance with Paragraphs 2 and 3 of the Regulation;

5.3. the parties involved in the discrepancies have turned to the court or court of arbitration for the examination of the discrepancies;

5.4. no payment for the examination of the discrepancies has been made.

6. If the Regulator does not establish the conditions referred to in Paragraph 5 of the Regulation, it shall notify the defendant of the submission of the submitter and determine the time period for the submission of the explanation and evidence.

7. The defendant shall submit to the Regulator in writing the explanation and the evidence within the time period specified by the Regulator.

8. The defendant shall indicate the following information in the explanation:

8.1. whether he or she recognises the claim in full or in part thereof;

8.2. his or her objections towards the claim and the justification thereof;

8.3. evidence which confirms the objections towards the claim and the justification thereof, and also the laws and regulations on which they are based;

8.4. other circumstances considered by him or her to be significant for the examination of the matter.

9. If, after receipt and examination of the explanations and evidence of the defendant, the Regulator establishes at least one of the conditions referred to in Paragraph 5 of the Regulation, it shall, in accordance with the Law on Submissions, provide the submitter with a reply which shall be signed by the Chair of the Regulator.

**III. Procedures for the Examination of the Discrepancies**

10. The adversarial proceedings of the parties involved in the discrepancies shall take place by providing explanations, submitting evidence, and also statements addressed to the Regulator and by carrying out other procedural activities in accordance with the procedures specified in the Packaging Law and the Regulation.

11. During the examination of the discrepancies, any party involved in the discrepancies may, informing the Regulator thereof, call upon the provision of an expert opinion at their own expense or take other legal action to obtain evidence relevant to the examination of the discrepancies.

12. If necessary for the examination of the discrepancies, the Regulator shall request an opinion from a State or local government authority.

13. A legal person shall be represented in the examination of the discrepancies by an official acting in conformity with the authorisation conferred by law, articles of association or by-laws, or by another authorised representative of the legal person. The representation of a legal person shall be formalised with a written power of attorney or documents attesting to the right of an official to represent the legal person without special authorisation.

14. The party to be represented shall be bound by any procedural action performed by the representative within the scope of his or her authorisation. The notifications and other documents of the Regulator shall be sent to only one representative. If a party involved in the discrepancies is represented by several representatives, they shall agree and submit to the Regulator the address of one representative to which the Regulator shall send notifications and other documents. If the representatives do not agree on the address of one representative, the Regulator shall send notifications and other documents to one representative of his or her choice.

15. If the party to be represented withdraws the authorisation given to the representative, the party to be represented shall notify the Regulator thereof in writing.

16. Following the entering into legal effect of the decision of the Regulator to examine the discrepancies, a party involved in the discrepancies, and also a legal successor thereof, is not entitled to submit a new submission to the Regulator for the examination of the discrepancies regarding the same subject of the discrepancies on the same grounds.

17. The Chair of the Regulator shall terminate the examination proceedings of the discrepancies if the submitter revokes the submission regarding the examination of the discrepancies.

**IV. Amount of the Fee for the Examination of the Discrepancies and the Procedures and Time Period for the Payment**

18. The Regulator shall examine the discrepancies if the submitter has paid the fee for the examination of the discrepancies in accordance with the price list for the examination of the discrepancies which is specified in the Annex to the Regulation.

19. The submitter shall pay the fee indicated in the price list prior to submitting the submission for the examination of the discrepancies to the Regulator. The submitter shall pay the fee for the examination of the discrepancies into the account of the Regulator in the Treasury.

20. The submitter shall pay the fee through a payment institution which has the right to provide payment services within the meaning of the Law on Payment Services and Electronic Money. The costs for the collection of fees shall be borne by the payer.

**V. Closing Provision**

21. The Regulation shall come into force on the day following its publication in the official gazette *Latvijas Vēstnesis*.

Acting Chair, Board Member of the Public Utilities Commission I. Mantiņš

**Annex**

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**Price List for the Examination of the Discrepancies**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Type of service | Unit of measurement | Cost excluding VAT (EUR) | VAT[[1]](#footnote-1)\* (EUR) | Cost including VAT (EUR) |
| Examination of the discrepancies | 1 proceedings | 5060.67 | 0 | 5060.67 |

Acting Chair, Board Member of the Public Utilities Commission I. Mantiņš

1. \* Value added tax shall not be applied in accordance with Section 3, Paragraph eight of the Value Added Tax Law. [↑](#footnote-ref-1)