

FEDERAL LAW NO. 41-FZ OF APRIL 14, 1995 ON STATE REGULATION OF THE TARIFFS ON ELECTRIC AND THERMAL POWER IN THE RUSSIAN FEDERATION (with the Amendments and Additions of February 11, 1999, January 10, March 26, July 7, 2003, August 22, December 30, 2004, December 2, 26, 31, 2005, October 18, November 4, 2007)

Adopted by the State Duma on March 10, 1995

The present Federal Law shall define the economic, organizational and legal principles underlying state regulation of the tariffs on electric and thermal power in the Russian Federation.

Article 1. The General Concepts

The following basic concepts shall be applied in the present Federal Law:

the tariffs on electric and thermal power - the system of the price rates, by which settlements for electric power (energy) and thermal power (energy) are made; for the purposes of the present Federal Law, the said concept shall be applied, proceeding from the meaning and the concrete content of the legal norm;

the power-supply organization - an economic unit which sells to consumers produced or bought electric and (or) thermal energy;

the consumer - the natural or legal person making use of electric power (energy) and (or) of thermal power (energy);

the federal (all-Russia) wholesale market of electric power (capacity) (hereinafter referred to as the wholesale market) is the sphere of trading in electric power and capacity within the framework of the Unified Energy System of Russia, in the bounds of the single economic space of the Russian Federation with participation of big generators and big buyers of electric power, which have obtained the status of subjects of the wholesale market and operate on the basis of the wholesale market rules;

the subjects of the wholesale market - the legal persons, buying and selling electric power (energy) and (or) rendering services on the federal (all-Russia) wholesale market of electric power (energy).

Article 2. The Essence of the State Regulation of the Tariffs

The state regulation of tariffs on electric and thermal energy (power) (hereinafter referred to as tariffs) shall be effected on the basis of the principles stated in this Federal Law by way of establishing economically reasonable tariffs (prices, payment for services) on electric and thermal energy, and (or) maximum levels thereof.

The validity of established tariffs and (or) of their maximum levels may not be less than one fiscal year, if not otherwise established by a federal law or a decision of the Government of the Russian Federation.

The ultimate levels of tariffs on electric and thermal energy, delivered by energy-supplying organisations to consumers, including the ultimate levels of tariffs for the population, shall be established by the Government of the Russian Federation with the ultimate levels for the population being indicated before the draft federal law on the federal budget for the next financial year and planned period is handed in to the State Duma of the Federal Assembly of the Russian Federation and shall be put into operation as from the year start in accordance with the procedure, established in the present Federal Law. The said ultimate levels of tariffs may be established by the Government of the Russian Federation for a term of over one year, broken down in accordance with the calendar and with the categories of consumers, while taking into account the regional and the other specifics.

The bodies of executive power of the entities of the Russian Federation in the fields of the state regulation of the tariffs shall establish the tariffs on electric and thermal energy delivered by the energy supplying organisations to the consumers, including to the population, for the next financial year within the said marginal levels pending the adoption of the law of the entity of the Russian Federation on the budget of the entity of the Russian Federation.

It shall be impermissible to change the said tariffs during the financial year without the simultaneous submission by the Government of the Russian Federation (or the body of executive power of the entity of the Russian Federation) for the consideration by the State Duma (or the legislative (representative) body of the entity of the Russian Federation) of a draft federal law (a law of the entity of the Russian Federation) on amending and supplementing the federal law (the law of the entity of the Russian Federation) on the federal budget for the current financial year and planned period (on the budget of the subjects of the Russian Federation for the current financial year).

It shall be allowed to exceed the said maximum levels in the procedure established by Article 6 of this Federal Law.

In the event of exceeding the level of prices (tariffs) on electric power supplied to the population, which are established by executive bodies of the subjects of the Russian Federation, on the services rendered by the subjects of natural monopolies exceeding the maximum levels established by the

Government of the Russian Federation, the additional expenses of consumers financed from appropriate budgets and the outlays connected with paying additional subsidies to the population shall be borne by the consolidated budgets of the subjects of the Russian Federation.

When controlling tariffs on electric and thermal energy, the state control bodies shall taken into account the expenditure of energy supply organizations, including the expenditure on securing floating funds, reasoning from the order of paying for electric and thermal energy.

Payments for electric and thermal energy shall be made reasoning from the actual volume of electric and thermal power taken by the consumer in compliance with the data of recording electric and thermal power, if not otherwise provided for by federal laws, other normative legal acts and an agreement of the parties.

If not otherwise established by an agreement of the parties, consumers shall pay for electric energy prior to the 15th day of the current month.

State control over the tariffs may be exercised separately in respect of the electric power supplied to the population within the limits of the social consumption rate and in respect of that in excess of the social consumption rate.

When establishing for individual consumers reduced tariffs on electric and thermal energy that are controlled in compliance with this Federal Law, the increase of tariffs on electric and thermal power for other consumers shall not be permitted.

Article 3. The Purpose of State Regulation of the Tariffs

The state regulation of the tariffs shall be aimed at:

- protecting the economic interests of the consumers from the monopoly tariff increases;
- the creation of a mechanism for coordinating the interests of the producers and the consumers of electric and thermal power;
- the formation of a competitive medium in the electro-engineering complex for the purpose of raising the efficiency of its operation and of minimizing the tariffs;
- the creation of economic incentives which would provide for the application of energy-saving technologies in the production processes;
- ensuring to the legal entities - producers of electric power (energy), regardless of their legal-organizational form, the right of an equal access to the wholesale market.

Article 4. Principles of the State Regulation of the Tariffs

The following basic principles shall be observed in the state regulation of tariffs:

ensuring the balance of economic interests of suppliers and consumers of electric and thermal energy on the basis of availability of said energy types and subject to ensuring the economically reasonable profitability of invested capital deposited into the production and transmission of electric and thermal power and into the activity of efficient-dispatch management in electric power industry;

- defining the economic feasibility of the planned (estimated) primary costs and profits in the calculation and approval of the tariffs;
- ensuring the openness and availability to consumers, and likewise to the population, of the information on consideration and endorsement of tariffs in compliance with the standards of disclosing information established by the Government of the Russian Federation and providing for the obligation to publish disclosed information in the official mass media where official materials of state power bodies are published in compliance with federal laws and laws of the subjects of the Russian Federation;
- ensuring the economic feasibility of the outlays of the commercial organizations on the production, transmission and distribution of electric and thermal power;
- providing to the commercial organizations in the sphere of the production, transmission and distribution of electric and thermal power, financial means for the development of the production, for the scientific and technical and for the community development, including the means, directed towards energy-saving and towards ensuring the power, technical and ecological safety (including the nuclear and radiation safety) of the Russian Federation, effected by way of drawing on the loans, private investments, the means of the commercial organizations (the investment funds, the insurance funds and the funds for the scientific research and for the experimental design work), as well as on the other means;
- creating conditions for attracting domestic and foreign investments;
- defining the amount of the means, directed for the remuneration of labour, in conformity with the industrial tariff agreements;
- selecting the suppliers of power equipment and the turnkey contract organizations for power engineering and electric network construction on the competitive basis;
- registering the results of the activity of the power-supply organizations by the results of their work over the period of operation of the earlier approved tariffs.

The state control over prices (tariffs) in electric power industry may be exercised on the basis of long-term parameters for regulation of appropriate organisations' activities (for a term of at least three years where the said prices (tariffs) or their limit levels are fixed for the first time) on condition of

introduction for the purpose of such control of separate accounting of the assets used while exercising the said kinds of activities and of the investment capital used for their creation.

The long-term parameters of the state price (tariff) control in electric power industry shall likewise include the level of reliability and quality of the said commodities (services) complying with long-term investment programmes of controlled organisations, time history of outlays connected with supply of appropriate commodities (services), amount of investment capital, rate of return, time for investment capital payback and other parameters.

For the purpose of the state control of tariffs, long-term parameters of such control obtained by way of using the analogue comparison method and other methods may be applied.

Article 5. Powers of Federal Executive Bodies in Respect of the State Tariff Control

As regards the state tariff control, the Government of the Russian Federation or the federal executive body in charge of tariff regulation:

shall endorse the normative and methodological basis of the activities of state executive bodies, as regards the state tariff control;

shall establish the basics of forming prices of electric and thermal energy in the territory of the Russian Federation, including a procedure for forming the price of the electric energy sellable in the wholesale market at controlled prices subject to regional specifics of forming tariffs on the wholesale market;

shall endorse the rules for the state control and application of electric and thermal power tariffs;

shall determine a procedure for establishing long-term parameters of control over the activities of organisations in the electric power industry sector classified by the legislation of the Russian Federation as pertaining to the scope of activities of natural monopolies and/or prices (tariffs) of certain kinds of commodities (services) which are controllable in compliance with the list defined by federal laws;

shall determine a procedure for considering the differences between executive bodies of constituent entities of the Russian Federation, organizations exercising controllable types of activities and consumers, as well as the amount of, and a procedure for paying, the fee payable, when applying for consideration of said differences;

shall endorse for the purpose of control the rules for assessing the value of assets and invested capital using the analogue comparison methods, rules for separate accounting thereof applicable in the activities controllable with the use of the rate of return on investment capital;

shall establish a procedure for determining a payment for technological connection to electric networks;

shall establish the criteria for identifying the electric power producers which are entitled to sell it at market prices;

shall develop and endorse the uniform system of classification and separate accounting of expenditure depending on the kinds of activities of energy supplying organizations, as well as the system of reports to be submitted to the federal executive body in charge of tariff control;

shall determine the maximum volume of, and a procedure for, the sale at market prices of electric energy (power) on the wholesale market;

shall form the summary forecasting balance of production and supply of electric energy (capacity) within the framework of the Unified Energy System of Russia with a breakdown for constituent entities of the Russian Federation, with the account taken of the forecasted fuel balance, trends in the development of electric power industry for the needs of housing and communal services, specifics of delivering products (commodities) to regions where time periods for delivery thereof are limited, and of other factors;

shall exercise control over the use of investment resources which are included into the tariffs controllable by the State, in the procedure established by the Government of the Russian Federation;

shall exercise control over the use of investment resources included into the tariffs controlled by the State in the procedure established by the Government of the Russian Federation;

shall endorse investment programmes of electric power entities in whose authorized capital the State participates and of power grid companies classified as entities whose investment programmes are endorsed by the authorized federal executive body;

shall exercise control over implementation of investment programmes of electric power industry entities in the procedure established by the Government of the Russian Federation;

shall determine a list of services related to the organization of functioning and development of the Unified Energy System of Russia, shall establish the amount of the user's fee for rendered services and shall determine an order of paying for it;

shall establish prices (tariffs) of the services related to ensuring the system's reliability;

shall establish a rate of payment for technological connections to the united national (all-Russia) power grid and or standardized tariff rates defining the amount of such payment;

shall establish tariffs of the services related to electric power transmission and their extreme (minimum and (or) maximum) rates in the procedure established by this Federal Law;

shall establish tariffs on the services related to operational dispatch management in power industry and extreme (maximum and/or minimum) levels of prices (tariffs) of the said services, as regards the selection of executors and payment for the services related to the system reliability maintenance, the services related to resolving emergency situations in the Unified Energy System of Russia and the services related to forming an engineering capacity reserve;

shall establish the tariffs or their extreme (minimum and (or) maximum) levels of prices of the electric power sellable by producers in the wholesale market, except for the sale of electric energy by them at market prices, in the volume and in the procedure which are established by the Government of the Russian Federation;

shall establish the extreme (minimum and/or maximum) price levels for electric energy sellable by producers thereof in the wholesale market at controlled prices in the cases and in the procedure which are established by the Government of the Russian Federation;

shall determine the volume of assets necessary for ensuring the safe functioning and development of nuclear power plants which is accountable, when establishing tariffs or the extreme (minimum and (or) maximum) rates thereof for the electric energy sellable in the wholesale market of electric energy (power) by the producers owning said nuclear power plants;

shall establish the extreme (maximum and (or) minimum) rates of tariffs of the electric energy provided by power supply organizations to consumers, including the electric power sellable at market prices;

shall establish the extreme (minimum and (or) maximum) rates of tariffs of the thermal energy generated by the electric power stations which produce both electric and thermal power;

shall consider differences between executive bodies of constituent entities of the Russian Federation in charge of the state control of tariffs, organizations engaged in the controllable types of activities and consumers, as well as shall render decisions whose execution is obligatory;

shall exercise control over application of the state-controlled prices (tariffs) and shall inspect economic activities of the organizations engaged in the activities of controllable price formation, insofar as it concerns the reasonableness of the amount and the correctness of application of the said prices (tariffs);

coordinate in the established order decisions taken by the executive bodies of constituent entities of the Russian Federation in the sphere of the state tariff control;

shall establish the extreme (minimum and/or maximum) levels of tariff for thermal energy, except for the energy produced by power stations operating in the combined mode of electric/thermal energy production.

The Government of the Russian Federation shall determine the scope of authority of the federal executive body in charge of tariff control within the scope of the authority determined by this Article, as well as by other federal laws.

Article 6. Powers of Executive Bodies of the Subjects of the Russian Federation and of Local Self-Government Bodies, as Regards the State Control of Tariffs

Executive bodies of the subjects of the Russian Federation in charge of the state control of tariffs shall exercise the following powers:

shall establish tariffs on the services related to transmission of electric power over distribution networks within the limits of the extreme (minimum and (or) maximum) rates of tariffs on electric power transmission over distribution network, as well as shall establish tariffs on the services related to thermal power transmission, established by the federal executive bodies in charge of tariffs' regulation;

shall establish sale extra charges for guaranteeing electric power suppliers;

establish tariffs for thermal energy, except for the energy produced by the power stations, except for the energy produced by the power stations operating in the combined mode of electrical energy/thermal energy production, within the framework of the limits (minimum and/or maximum) on the level of tariff for thermal energy established by the federal executive governmental body in the area of tariff regulation, except for the energy produced by the power stations operating in the combined mode of electrical energy/thermal energy production;

shall establish tariffs on the thermal energy produced by the electric power stations combining the production of electric and thermal energy within the limits of the extreme (maximum and (or) minimum) rates of tariffs on the thermal energy produced by the electric power stations combining the production of electric and thermal power which are established by the federal executive body in charge of tariffs' regulation;

shall establish tariffs on the electric energy provided to consumers by power supply organizations within the limits of the extreme (minimum and (or) maximum) rates of tariffs established by the federal executive body in charge of tariffs' regulation, save for the electric power sellable at free market prices;

shall exercise control over the application of the prices (tariffs) controllable by them and shall inspect the economic activities of the organizations engaged in the activity related to controllable price

forming, insofar as it concerns the reasonableness of the amount, and the correctness of application, of said prices (tariffs);

shall participate in forming the summary forecasting balance of production and supply of electric energy (power) within the limits of the Power Grid of Russia for the subjects of the Russian Federation;

shall establish payment for a technological connection to distribution electric networks;

shall exercise in the procedure determined by the Government of the Russian Federation control over the use of investment resources includable into the tariffs controlled by the State;

shall fix tariffs for technical connection to electric power grids and/or standardized tariff rates for determining the rate of this payment for regional power grid operating companies.

A decision to exceed the said extreme levels, where such excess is caused by the scale of investment programmes of electric power industry entities approved in the procedure defined by the Government of the Russian Federation, shall be adopted by the executive power body of a constituent entity of the Russian Federation independently and its coordination with the federal executive body in charge of tariff control shall not be required.

The regulation of said rates shall be carried out in accordance with the principles of price formation for electric and thermal power on the territory of the Russian Federation, with the rules for state regulation and the application of rates of electric and thermal power, and with other normative legal acts and the methodological directions, approved by the Government of the Russian Federation or the federal executive body in charge of tariffs' regulation. A decision by the executive body of a subject of the Russian Federation in the sphere of the state regulation of rates concerning the approval of rates by it, which are higher than the maximum level or lower than the minimum level established by the Government of the Russian Federation or by an authorized federal executive body, shall be agreed upon with the federal executive body engaged in the regulation of natural monopolies in the order established by the rules for state regulation and the application of rates of electric and thermal power, until the adoption of said decision by the executive body of the subject of the Russian Federation. The above-mentioned decision shall be approved by the federal executive body that regulates natural monopolies at the latest thirty calendar days since the date of the appeal by the executive body of the subject of the Russian Federation in the sphere of the state regulation of rates. This executive body of the subject of the Russian Federation in the sphere of the state regulation of rates shall function in keeping with the statutes of the executive bodies of the subjects of the Russian Federation in the sphere of state regulation of rates approved by the executive bodies of the subjects of the Russian Federation in the sphere of state regulation of the rates made out on the basis of the standard regulations approved by the Government of the Russian Federation. A decision taken by the executive body of the subject of the Russian Federation in the sphere of state regulation of rates, with the abuse of its authority established by said normative legal acts shall be revoked in the procedure prescribed by the Government of the Russian Federation.

The executive body of a subject of the Russian Federation in charge of the state control of tariffs in compliance with this Federal Law shall be a legal entity.

The appointment to the office and relieve of the office of the head of the executive body of a subject of the Russian Federation in charge of the state regulation of tariffs shall be effected by approbation of the federal executive body in charge of tariffs' regulation.

Local self-government bodies may be empowered by the laws of a subject of the Russian Federation to effect the state tariffs' regulation on thermal energy (save for that produced by the electric power stations combining the production of electric and thermal energy) directly supplied by sources of thermal energy providing thermal energy to the consumers situated on the territory of one municipal formation.

A decision of a local self-government body rendered in pursuance of the authority delegated to it under this Article and contravening the laws of the Russian Federation on electric power industry or rendered in excess of the authority delegated to it, shall be subject to reverse by the appropriate executive body of the subject of the Russian Federation in the procedure established by the Government of the Russian Federation.

Local self-government bodies shall establish surcharges to tariffs on electrical and thermal power supplied to consumers by power supply authorities (surcharges to prices (tariffs) for consumers of the goods and services of the municipal complex organizations), surcharges to tariffs for the goods and services of the municipal complex organizations producing goods and services in the area of electric and/or thermal power supply, tariffs of these organizations for hookup and tariffs for hookup to the municipal infrastructure system in the area of electric and/or thermal power supply according to the Russian Federation legislation on the fundamentals in the regulation of the municipal complex organizations tariffs.

Article 7. Financing the Federal Executive Body in Charge of Tariffs' Regulation and Executive Bodies of the Subjects of the Russian Federation in Charge of the State Tariff Control

The federal executive body in charge of tariffs' regulation and the executive bodies of the subjects of the Russian Federation in charge of the state tariff control shall be financed at the expense of the funds

allocated for these purposes from the federal budget and budgets of the subjects of the Russian Federation accordingly.

Article 7.1. The Settlement of Disputes Arising During the State Regulation of Electric and Thermal Power Rates

Disputes over the state regulation of electric and thermal power rates shall be examined by a court of arbitration.

Article 8. Excluded.

Article 9. Excluded.

Article 10. Excluded.

Article 11. Excluded.

Article 12. Excluded.

Article 13. Excluded.

Article 14. Excluded.

Article 15. Excluded.

Article 16. Bringing of the Normative Legal Acts into Correspondence with the Present Federal Law

The legal acts of the President of the Russian Federation and of the Government of the Russian Federation, as well as the normative legal acts of the federal executive power bodies and the normative legal acts of the subjects of the Russian Federation on the issues, involved in the state regulation of the tariffs, shall be brought into correspondence with the present Federal Law within three months from the day of its coming into force.

Article 17. Enforcement of the Present Federal Law

The present Federal Law shall come into force as from the day of its official publication.

President of the Russian Federation

Moscow, the Kremlin

Boris Yeltsin