

**DECREE No. 45/2001/ND-CP OF AUGUST 2, 2001 ON ELECTRICITY ACTIVITIES AND USE**

THE GOVERNMENT

*Pursuant to the September 30, 1992 Law on Organization of the Government;*

*At the proposal of the Minister of Industry,*

DECREES:

Chapter I

GENERAL PROVISIONS

**Article 1.-** Electric energy is a special commodity. The State exercises the unified management of electricity activities and use nationwide by law, policies, planning and plans on electricity development. Electricity production and business constitute a conditional business line.

**Article 2.-** This Decree prescribes electricity activities and use and is applicable to all domestic and foreign organizations and individuals in the Socialist Republic of Vietnam, except for cases where the international treaties which the Socialist Republic of Vietnam has signed or acceded to otherwise provide for.

**Article 3.-**

1. Organizations and individuals engaged in electricity activities in the following domains must have licenses for electricity activities:

- a) Consultancy on planning elaboration, electricity project designing;
- b) Electricity production, transmission, distribution, trading and supply.

2. Agencies competent to grant licenses for electricity activities are stipulated as follows:

a) The Ministry of Industry shall grant electricity activity licenses to:

- Organizations providing consultancy on planning, designing, supervision and other forms of consultancy for electricity projects and works.
- Enterprises of State corporations and foreign-invested enterprises engaged in the activities of electricity production, transmission, distribution, trading and supply;
- Enterprises engaged in electricity production with an electricity generation capacity of 10 MW or more and enterprises managing the operation of electric transmission lines of 110 kV or more;
- Enterprises conducting electricity export and import activities.

b) The People's Committees of the provinces and centrally-run cities shall grant electricity activity licenses to organizations and individuals other than those defined at Point a, engaged in electricity activities in the domains prescribed in Clause 1 of this Article.

3. Organizations and individuals investing in the construction of electricity generation establishments for their own use without selling electricity to other organizations and individuals or electricity generation establishments with installing capacities being lower than that prescribed by the Ministry of Industry must not acquire licenses for electricity activities.

4. The Ministry of Industry shall guide the conditions, order and procedures for the granting of electricity activity licenses.

**Article 4.-** Electricity activities and use on the Vietnamese territory must comply with the provisions of this Decree and other relevant law provisions and at the same time with the economic, technical and environmental processes, regulations and standards promulgated by competent State bodies.

**Article 5.-**

1. The use of electricity must strictly comply with the purposes inscribed in the contracts. Where electricity needs to be used as a protection means, such must be permitted by competent State bodies. The Ministry of Industry shall specify the use of electricity in this case.

2. The use of electricity causing danger to people and animals, damage to the property of the State and people and adversely affecting the ecological environment is strictly forbidden.

**Article 6.-** Depending on their importance to the State and the society, organizations and individuals using electricity shall be arranged in a priority order for additional charge regulation and restriction in case of electricity shortage. The People's Committees of the provinces and centrally run cities shall determine the priority order of electricity-using organizations and individuals in their respective localities and notify the electricity-managing units of the same provinces and cities thereof for implementation.

**Article 7.-** In this Decree, the terms below shall be construed as follows:

1. "Electricity activities" mean activities aimed to generate, maintain and bring electric energy to using organizations and individuals in commercial and other forms prescribed by the State, including; activities on planning, designing consultancy, construction investment, production, transmission, electricity system regulation, electricity distribution, trading and supply, including electricity export and import.

2. "Electricity use" means the process of using electricity for certain purposes.

3. "Electricity industry" means a group of organizations and individuals of all economic sectors, conducting electricity activities on the Vietnamese

territory.

4. "National electricity system" means a group of inter-related material and technical foundations which produce, transmit, distribute, control and supply electricity and are assigned by the State to Vietnam Electricity Corporation for management.

5. "Electricity work" means a complex of architectural constructions and objects, equipment and facilities for electricity generation, transmission and distribution. Electricity works include power plants, electricity generating units, transformer stations, power transmission lines and accompanying synchronous equipment.

6. "Electricity production" means activities of managing, operating power plants, electricity generation stations for the production of electric energy according to set standards.

7. "Commercial production of electricity" means the production by power plants after the period of trial run, which officially supply electricity to the electricity buyers.

8. "Electricity transmission" means activities of managing and operating electricity works in order to carry electricity from the electricity production places to electricity distribution grids.

9. "National electricity transmission grids" are the electricity transmission grids assigned by the State to Vietnam Electricity Corporation for management.

10. "Electricity transmission grids outside the national electricity system" means the electricity transmission grids invested and managed by other economic organizations, which can operate independently or be connected to the national electricity transmission grids.

11. "Electricity distribution" means the activities of managing and operating electricity works in order to transmit the electric energy from the transmission grids to electricity using organizations and individuals.

12. "Electricity supply" means the process of meeting electricity demands under certain conditions for organizations and individuals having demand for electricity use.

13. "Independent electricity sources and grids" mean establishments which produce, transmit, distribute and supply electricity for exclusive quarters, are managed and operate independently, which may or may not be connected with the national electricity system.

## Chapter II

### ELECTRICITY DEVELOPMENT PLANNING AND INVESTMENT

#### Section 1. ELECTRICITY DEVELOPMENT PLANNING

##### **Article 8.-**

1. The Ministry of Industry shall organize the elaboration of planning for the development of national electricity for each 10-year period, work out orientation for 10 subsequent years, submit them to the Prime Minister for ratification and manage the implementation of the ratified planning.

In cases where need be changes in the ratified electricity development planning, the Ministry of Industry shall submit them to the Prime Minister for consideration and decision.

2. The Ministry of Industry shall prescribe the contents, order and procedures for the elaboration of national electricity development planning.

**Article 9.-** Basing themselves on the socio-economic development planning, the defense and security requirements in their localities and the national electricity development planning already ratified by the Prime Minister, the People's Committees of the provinces and centrally run cities shall organize the elaboration of their local planning for electricity development for submission and approval as provided for in Article 10 of this Decree.

##### **Article 10.-**

1. The Minister of Industry shall have the responsibility to preside over and coordinate with the concerned ministries and branches in organizing the appraisal of national electricity development planning, the electricity development plans of Hanoi and Ho Chi Minh City, and submit them to the Prime Minister for approval.

In case of necessity, the Prime Minister shall decide on the establishment of the State Appraisal Council to assist the Prime Minister in considering and approving the national electricity development planning.

2. The Minister of Industry shall organize the appraisal and approval of electricity development plans of the provinces and centrally-run cities except the cities prescribed in Clause 1 of this Article.

3. The Ministry of Industry shall prescribe the blueprint contents, the appraisal, consideration and approval order and the management of the implementation of the local electricity development plans.

#### Section 2. ELECTRICITY DEVELOPMENT INVESTMENT

**Article 11.-** The investment in the development of electric works must comply with the national electricity development planning and the provincial/municipal electricity development plans already approved by competent State bodies and at the same time with the law provisions on investment and construction management.

**Article 12.-** Besides Vietnam Electricity Corporation, Vietnamese and foreign organizations as well as individuals investing in development of electric sources and exploitation of electric works must meet the following conditions:

1. In case of connection with the national electricity system:

- a) Having investment license or investment decision, permits for electricity activities and other permits as prescribed by law;
- b) Reaching agreement with Vietnam Electricity Corporation on the connection points and electricity trading contracts;
- c) Having to comply with the regulations on electricity sale prices in Clauses 2 and 3 of Article 38 of this Decree;

d) The operation regime and duration of the plant in a year are compatible to the operation regime of the national electricity system;

e) Having to comply with the operation process and regulations of the national electricity system.

2. In case of operation independent from the national electricity system:

a) Having investment license or investment decision, permit for electricity activities and other permits as prescribed by law;

b) Having to comply with the regulations on electricity sale prices in Clauses 2 and 3 of Article 38 of this Decree.

3. The Ministry of Industry shall announce the list of electricity projects to be built under the national electricity development planning so that domestic and foreign investors know and participate in the construction investment in forms prescribed by law.

4. The electricity projects with investment in forms of BOT, BTO, BT and a number of other investment forms shall enjoy preferences as prescribed by law.

**Article 13.-** The electricity sellers shall have the responsibility to invest in the construction of, manage and operate high-voltage and medium-voltage electricity transmission works to the fences of industrial parks and projects of the electricity-buyers except otherwise agreed upon. The investment in, management and operation of, low-voltage electricity grids shall comply with the provisions in Articles 27 and 51 of this Decree.

### Chapter III

## ELECTRICITY PRODUCTION AND TRANSMISSION AND REGULATION OF ELECTRICITY SYSTEM

### Section 1. ELECTRICITY PRODUCTION

#### **Article 14.-**

1. Power plants shall be put into production and business when meeting the following conditions:

a) Being constructed strictly according to the approved designs;

b) Having been inspected and tested before acceptance according to law provisions;

c) Having electricity activity permit and other permits as provided for by law.

2. For case of connection with the national electricity system, the provisions in Clause 1, Article 12 of this Decree must be complied with.

**Article 15.-** The boundary for management of power plants in the national electricity system shall be determined as from the points of connection with the national electricity system inwards the power plants.

For independent power plants engaged in activities of transmitting, distributing and selling electricity to the electricity buyers, the management boundary shall be determined towards the positions where are installed the measuring and counting equipment to sell electricity to the electricity buyers.

**Article 16.-** Electricity-producing organizations and individuals shall have the right to:

1. Conduct activities according to the contents prescribed in the investment licenses or investment decisions, electricity activity permits and other permits as prescribed by law.

2. Request the electricity transmission organizations and other concerned parties to implement the terms agreed upon in the contracts.

3. Enjoy other rights as provided for by law.

**Article 17.-** Electricity producing organizations and individuals shall have the duties to:

1. Implement the contents inscribed in the investment licenses or investment decisions, electricity activity permits and other permits as provided for by law.

2. Fulfill all agreements stated in the contracts signed with the electricity buyers, contracts with the electricity transmission units, other concerned parties and comply with the regulations of the National Electricity System Moderation Center.

3. Ensure the stable and safe electricity production as well as the electricity quality.

4. Meet the environmental protection standards as provided for by law.

5. Submit to the inspection and supervision by State management bodies as provided for by law.

6. Fulfill all other obligations as prescribed by law.

### Section 2. ELECTRICITY TRANSMISSION

**Article 18.-** The electricity transmission grid shall be calculated from the knife-switch or outlet line cutter of a power plant to the connection point behind the knife-switch or cutter of the transmission grid connecting to the distribution grid.

The boundary between the national electricity transmission grid and the electricity transmission grid outside the national system is the property boundary of each investing party.

#### **Article 19.-**

1. Independent electricity grids are allowed to be put into operation when satisfying the following conditions:

a) Being constructed strictly according to the approved designs;

b) Being inspected and tested before acceptance as provided for by law;

c) Having electricity activity permits and other permits as prescribed by law.

2. In case of connecting to the national electricity system, there must be agreement on connection points and the electricity trading contracts must be signed with Vietnam Electricity Corporation.

**Article 20.-**

1. Organizations owning the transmission grids may sign contracts to hire other organizations with electricity activity permits to manage the operation thereof.

2. Organizations and individuals engaged in electricity activities may sign contracts to rent electricity transmission grids for use of the electricity transmission services.

**Article 21.-** Rights and duties of organizations engaged in electricity transmission activities:

1. The electricity transmission organizations shall have the rights:

a) To inspect, make record of, propose the handling of or suspend in urgent case and report to competent bodies for handling of, acts of violating the provisions of legislation on the protection of safety of high-voltage electricity grids;

b) To propose to the National Electricity System Moderation Center the time and measures to overcome incidents in the electricity system;

c) To request the electricity buyers to supply information on the electricity volume to be bought.

2. The transmission organizations shall have the duties:

a) To exploit the electricity transmission grids strictly according to the technical process and regulations in a safe manner, ensuring the electricity quality as prescribed;

b) Upon the occurrence of incidents, to quickly overcome them and promptly notify the cause thereof and time for remedy to the partners that have signed the contracts;

c) To fulfill all obligations inscribed in the contracts signed with electricity production and/or distribution units as well as other concerned parties;

d) To fulfill other obligations as prescribed by law.

**Article 22.-** Apart from the rights and obligations prescribed in Article 21 of this Decree, organizations and individuals having electricity grids connected to the national electricity system shall also have the following rights and duties:

1. To abide by the unified administration of the National Electricity System Moderation Center.

2. To organize the management of electricity grid exploitation strictly according to the safe technical process and regulations.

3. To refuse to obey the order of the National Electricity System Moderation Center if deeming that it is seriously unsafe for people and equipment, but to take responsibility before law for their decisions.

4. To complain to the National Electricity System Moderation Center, the concerned electricity transmission partners about the electricity stability and quality of the transmission grids.

**Section 3. NATIONAL ELECTRICITY SYSTEM MODERATION**

**Article 23.-** The National Electricity System Moderation is an organization of Vietnam Electricity Corporation, which is called the National Electricity System Moderation Center, consisting of the central regulation and the regional regulation.

Vietnam Electricity Corporation shall elaborate the Process on National Electricity System Moderation and submit it to the Minister of Industry for consideration and approval.

**Article 24.-** Rights and duties of the National Electricity System Moderation Center:

1. The National Electricity System Moderation Center is entitled to cut the incident element from the system when realizing that such element threatens to cause serious unsafety for people, equipment and electricity system, then must immediately report such to the competent bodies and inform the concerned organizations and individuals thereof as provided for in the National Electricity System Moderation Process.

2. The National Electricity System Moderation Center has the duties:

a) To build up optimum operation mode and plans for handling national electricity system incidents and submit them to Vietnam Electricity Corporation for approval and implementation organization;

b) To administer the national electricity system, ensuring the electricity quality and electricity supply reliability;

c) In case of electricity source shortage, to draw up plans for cutting additional charges and report them to Vietnam Electricity Corporation for consideration, approval of implementation in conformity with the priority order prescribed in Article 6 of this Decree;

d) To fulfill all obligations inscribed in the National Electricity System Moderation Process in its relation with electricity production, transmission and/or distribution units as well as other relevant parties, and at the same time to comply with the contracts which Vietnam Electricity Corporation or authorized units have signed with the electricity sellers and/or buyers;

e) To fulfill other obligations as prescribed by law.

**Article 25.-** Organizations and individuals having electricity projects connected to the national electricity system must abide by the unified administration of the National Electricity System Moderation Center and strictly comply with trading contracts signed with organizations and/or individuals licensed to distribute electricity.

## ELECTRICITY TRADING AND USE

### Section 1. ELECTRICITY TRADING CONTRACTS

#### **Article 26.-**

1. The electricity trading must be carried out according to contracts. The electricity trading contracts are written agreements on the rights, obligations and relationships between the electricity seller and buyer. There are two types of electricity trading contract:

- a) The civil contract, applicable to the electricity trading for daily-life purpose, to be performed according to the provisions of the Civil Code. The form of contract is set by the Ministry of Industry;
- b) The economic contract, applicable to the electricity trading for production, business and other purposes, to be performed according to the provisions of the Ordinance on Economic Contracts.

2. The signatories to a contract shall have the responsibility to fully observe the provisions in the contract. Under practical conditions where the electricity supply fails to meet the demand of the electricity buyers, the electricity sellers must notify the former of the electricity system's supply capability so as to reach agreement before signing or adjusting the contracts to suit the situation. In case of failure to meet the demands, the parties may request the provincial/municipal Services of Industry to solve the matter.

#### **Article 27.-**

1. Conditions for signing civil contracts on electricity trading:

- a) The electricity buyer shall file a written request for electricity purchase together with the valid copy of one of the following papers: The permanent residence book or the temporary residence certificate, the house ownership certificate, house-renting contract;
- b) The electricity buyer must have full capacity for civil acts as provided for by law; for persons with their civil act capacity restricted or lost, the authorization must be made under the Civil Code;
- c) The daily-life consumer electricity grids must ensure the technical standards as provided for by law;
- d) The measuring and counting system must be installed strictly according to designs, inspected according to the State standards and lead-sealed off according to regulations;
- e) The electricity buyer must pay the costs of installation of branch wire lines from the electricity seller's power grids to the electricity buyer's house or property management area.

2. When the conditions prescribed in Clause 1 of this Article are fully met, within 7 days the parties must sign contracts and the sellers must switch on the electricity.

When receiving the written requests from the buyers but the sellers have no conditions to sell electricity, within 5 days, the sellers shall have to reply the buyers in writing.

#### **Article 28.-**

1. Conditions for signing economic contracts on electricity trading:

- a) The buyers and the sellers must be legal persons or individuals that have business registration papers as provided for by law;
- b) The electricity buyers being organizations and/or individuals that use electricity must have the written request, clearly stating the electricity use purposes and make lists of capacities of equipment consuming electricity. For organizations or individuals that use electricity with the use capacity of between 80 kW or more or have the transformers of 100 kVA or more must register the additional charge diagram and the technical and technological characteristics of the production chain;
- c) Electricity projects must be constructed and tested before acceptance strictly according to standards and designs already approved by competent bodies;
- d) The measuring system must be installed strictly according to designs, lead-sealed, inspected and given the standard certificates granted by State management bodies in charge of measuring standards and quality or the authorized organizations.

2. The time for electricity supply shall be agreed upon by both parties in the contracts.

**Article 29.-** The electricity buyers that have independent electricity generation sources may sell electricity to the national electricity system when so requested by the latter. The prices of electricity sold to the national electricity system shall be agreed upon by the two parties. Where the two parties fail to reach any agreement, each party may request a competent State body to settle it.

**Article 30.-** The electricity export and import shall be carried out under the agreements signed or acceded to by the Vietnamese Government with the Governments of concerned countries.

### Section 2. ELECTRICITY QUALITY STANDARDS

**Article 31.-** The sellers must ensure the quality of electricity supplied to the buyers according to the following regulations:

1. Regarding the voltage:

Under normal conditions, the voltage may fluctuate within  $\pm 5\%$  compared to the designated voltage and determined at the secondary side of the transformer supplying electricity to the buyer or at other positions agreed upon by the two parties in the contract when the buyer reaches the capacity coefficient ( $\cos \phi$ ) of  $\geq 0.85$  and comply with the additional charge diagram agreed upon in the contract.

In cases where the electricity grids are unstable, the voltage may fluctuate between + 5% and - 10%.

2. Regarding the frequency: Under normal conditions, the electric system frequency may fluctuate within the limit of  $\pm 0.2$  Hz as compared to the prescribed standard of 50Hz. In cases where the electric systems are unstable, the permitted frequency fluctuation shall be  $\pm 0.5$ Hz.

3. Where the buyer needs electricity with quality higher than the standards prescribed in Clauses 1 and 2 of this Article, the parties must reach agreement thereon in the contract.

**Article 32.-**

1. Under the conditions where the electricity grids meet the prescribed quality, the buyer of electricity for production, business or service activities with the use capacity of 80 kW or more or the transformer of 100 kVA or more, the  $\cos \phi$  of 0.85 must be ensured at the places where electricity meters are installed.

2. Where the  $\cos \phi$  is <0.85, the electricity buyer must apply the following measures:

- a) Installing the resistance capacity offsetting equipment to raise  $\cos \phi$  to 0.85 or higher;
- b) Buying more resistance capacity on the seller's electricity system.

3. Where the electricity buyer can transmit the resistance capacity onto grids, the two parties may reach agreement on such purchase and sale in the contract. The Ministry of Industry and the Government Pricing Committee shall guide the purchase and sale of resistance capacity prescribed in Clauses 2 and 3 of this Article.

**Section 3. ELECTRICITY MEASUREMENT AND COUNTING**

**Article 33.-**

1. The electricity measurement and counting shall be effected with the standard electricity measuring and counting equipment (electricity meters, current adaptor, voltage transformer) which are lead sealed by competent expertising organizations.

2. Only competent or authorized organizations defined by the General Department of Quality, Standardization and Measurement can expertise the electricity measuring and counting equipment.

**Article 34.-** Where the buyer of electricity for use for various purposes at different electricity prices, each price subject must have a separate measuring and counting meter. Where such meter cannot be installed and a common meter must be used, the two parties must reach agreement on ways of calculating the electricity percentage according to each type of price in the contract.

**Article 35.-**

1. The electricity sellers have the responsibility to install the already expertised electricity measuring and counting equipment to sell electricity to the buyers and take responsibility for such equipment's standard compatibility and accuracy, except otherwise agreed upon by the two parties.

2. Organizations and individuals using electricity for production, business and/or service activities and having equipment that use three-phase electricity with the use capacity of 80 kW or more or transformer with capacity of 100 kVA or more must have effect meters and resistance meters installed.

3. Meters and measuring equipment, meter protection devices and accompanying safety equipment are the property of the electricity sellers; the labor costs and auxiliary materials for the installation thereof shall be borne by the electricity buyers.

4. The positions for installation of meters shall be agreed upon by the electricity buyers and sellers and must satisfy the requirements on safety, beauty and convenience for the inspection of meters' numbers by both parties. If both parties fail to reach agreement on the meter positions, the electricity sellers shall request the provincial/municipal Industry Services to consider and decide the matter.

**Article 36.-**

1. When there is any doubt about the inaccuracy of meters, electricity buyers may request the electricity sellers to check it. Within 3 days at most after receiving the request from the electricity buyers, the electricity sellers shall have to inspect and fix it. The electricity sellers must pay all expenses for inspection and repair of meters.

2. If disagreeing with the results of inspection and repair by the electricity sellers, the electricity buyers may complain with the provincial/municipal Industry Services and request the latter to nominate an independent expertising organization to re-examine it. Depending on the expertise results:

- a) If the meters are accurate, the electricity buyers shall have to pay the expertise costs;
- b) If the meters are inaccurate (fast or slow), the electricity sellers must re-fix them and pay the expenses for expertise and repair of meters.

3. Pending the expertise results, the electricity buyers shall still have to pay the electricity charges on time according to the meters' numbers. After the conclusions made by the expertising organization, the settlement of the difference of electricity charges shall comply with Article 40 of this Decree.

4. When changing meters, the buyers and the sellers must together sign the record confirming the meters' numbers.

**Article 37.-**

1. The electricity sellers shall have the responsibility:

- a) To organize the first inspection of meters, regular and irregular inspection and replacement in order to ensure that meters operate within the limit of permitted errors. In case of replacement of meters, to inform the buyers thereof;
- b) For meters placed outside the electricity buyers' property management areas, which are lost or damaged not due to the electricity buyers' faults, the electricity sellers shall have to install other meters and re-supply electricity to the buyers within no more than 7 days as from the date of making records confirming that the meters are lost or damaged;
- c) For organizations and individuals using electricity for daily life purpose, to record the meters' numbers once a month, permitting to change the recording date 1 or 2 days earlier or later. If the recording date falls on a holiday or Tet festival, the numbers recording shall be made 1 to 2 days before or after such holiday or Tet festival;
- d) For organizations and individuals using electricity for purposes other than the daily-life activities, the recording of meters' numbers is

stipulated as follows:

- For under 10,000 kWh/month, to record the meters numbers once a month.
- Between 10,000 and 50,000 kWh/month, to record the meters numbers twice a month.
- Over 50,000 kWh/month, to record the meters number thrice a month.

e) For organizations or individuals that use less than 15 kWh/ month, the recording of meters numbers may be made once every 3 months. In cases where an organization or individual use less than 15 kWh in 3 months, the exact numbers on the meter shall be recorded and the seller may collect the electricity charge at a fixed level equal to the value of 15 kWh according to the current electricity price index;

f) To inform the electricity buyers of the electricity volumes used in the month with bills inscribing the meters numbers and the full names of the meters number recorders. In case of change of the recording date, to inform the electricity buyers thereof;

g) To ensure the accuracy of the already recorded numbers on meters;

h) In case of detecting that an electricity buyer has committed act of fraudulence in using electricity by damaging or falsifying the numbers on meters, the electricity seller may make the record of such act of violation and request the competent State management body to settle the case.

2. The electricity buyers shall have the responsibility:

a) To promptly inform the electricity sellers of the loss, damage or inaccuracy of meters upon the detection or doubt thereof;

b) To protect the meters (including lead seals and connection diagrams) placed within their property management areas. In case of causing loss or damage to the meters, to pay the compensation therefor or pay the costs of repair or inspection;

c) Not to disconnect and/or remove meters at their own will. When wishing to do so, there must be the consent of the electricity sellers before removing the meters to other positions. The costs of removing meters shall be borne by the electricity buyers.

#### Section 4. ELECTRICITY PRICES AND ELECTRICITY CHARGE PAYMENT

##### **Article 38.-**

1. The electricity price index of the national electricity system shall be elaborated by the Ministry of Industry and submitted to the Prime Minister for approval after it is appraised by the Government Pricing Committee and concerned bodies.

2. Organizations and individuals that buy wholesale electricity from the national electricity system to re-sell it to other organizations and/or individuals must strictly adhere to the electricity price index approved by the Prime Minister.

3. The electricity selling prices of organizations and individuals conducting independent electricity activities shall be prescribed as follows:

a) The price of electricity sold to Vietnam Electricity Corporation for transmission into the national electricity system shall be agreed upon by the two parties in the contract. In special cases where the two parties fail to reach agreement thereon, it shall be proposed to the competent State management body for submission to the Prime Minister for decision;

b) Where electricity is sold directly to electricity users being organizations and/or individuals, it shall be agreed upon by the two parties in the contracts. In special cases where the two parties fail to reach agreement thereon, it shall be proposed to the competent State body for solution.

##### **Article 39.-**

1. The paid electricity volume shall be determined according to the indexes and technical parameters of electricity measuring and counting equipment. The way of determining the paid electricity volume must be clearly inscribed in the contract.

2. The price level for electricity charge payment shall comply with the provisions in Article 38 of this Decree.

3. The electricity charges shall be paid in Vietnamese currency. The payment mode and conditions shall be inscribed in the electricity trading contracts. Where the electricity charges are calculated in foreign currency(ies), such foreign currency(ies) shall be converted into Vietnamese currency at the average exchange rates on the inter-bank foreign currency market, announced on the first day of the month when the bill is made. The electricity trading in export processing zones, open economic zones shall be effected in the type of currency agreed upon by the buyer and the seller in the contracts.

4. The electricity charges shall be paid according to the time of recording the numbers on meters as provided for at Points c, d and e of Clause 1, Article 37 of this Decree.

5. Upon receiving the request for payment of electricity charge, if a buyer has not yet made the payment, the seller shall have to send the electricity charge payment notice to the buyer. Within 7 days after receiving the notice of the seller, the buyer shall have to make the payment. If past the above-said time limit the buyer still fails to make the payment:

a) For civil contracts: the seller may agree to let the buyer delay the payment if the latter has plausible reasons. If past the agreed time limit the buyer still fails to make the payment, the seller may suspend the electricity sale;

b) For economic contracts: when the seller has reached agreement with the buyer on the payment delay, the buyer shall have to pay the three-month commercial loan interest of Vietnam Bank for Industry and Commerce on the delayed payment amount counting from the 10th date. If past the agreed time limit the buyer still fails to make the payment, the seller may suspend the electricity sale.

6. For electricity in service of irrigation, which is used for watering and draining rice fields, vegetable gardens, industrial plants intercropped in areas cultivated with rice or subsidiary food crops, the payment time limit shall be agreed upon by the seller and the buyer, but must not exceed 120 days as from the date of receiving the electricity charge payment notice.

**Article 40.-** Where a meter is lost, operates inaccurately or stops working, the paid electricity volume shall be determined as follows:

1. If the meter runs fast as compared to the prescribed standards:

a) In cases where the fast-running duration cannot be determined, the electricity seller shall refund the overpaid electricity charge amounts, with the calculation time limit being four cycles of recording the numbers on the meters, including the current electricity-using cycle which has not yet reached the date of numbers recording;

b) In cases where the fast-running duration can be determined, the seller shall refund the electricity charge amount actually collected in excess from the buyer.

2. If a meter runs slow as compared to the prescribed standards:

a) In cases where the slow-running duration cannot be determined accurately, the electricity seller may additionally collect the electricity charge collected inadequately during the time limit of not more than two cycles of recording numbers on the meter, including the current electricity using cycle which has not yet reached the recording date;

b) In cases where the slow-running duration can be concretely determined with plausible reasons, the buyer shall have to pay the outstanding electricity charge amount to the seller.

3. If a meter stops working or is lost while the electricity buyer still uses the electricity, the paid electricity volume during the period of temporary supply of electricity without going through the meter shall be the daily average electricity volume of three preceding consecutive cycles of recording the numbers on the meter multiplied by the number of days of temporary supply of electricity.

4. In cases where the seller has installed the multi-price meter, during the time the multi-price meter is out of order without any replacement, the single-price meter shall be temporarily replaced and the electricity charge shall be calculated according to the normal hours.

## Section 5. RIGHTS AND DUTIES OF THE ELECTRICITY SELLERS

**Article 41.-** The electricity sellers shall have the right:

1. To refuse signing the electricity-selling contracts when the buyers fail to meet all conditions prescribed in Articles 27 and 28 of this Decree.

2. To regularly and irregularly inspect the observance of terms in the electricity trading contracts, make record of contractual breaches, if any, by the buyers.

3. To switch off electricity first, then notify such to the buyers in case of danger of causing serious incidents or unsafety to people and/or equipment.

4. To detect and record acts of administrative violation in electricity activities and use by organizations and individuals and promptly report them to competent bodies for consideration and handling according to law provisions.

5. To partly or fully stop selling electricity when buyers commit violations in one of the following cases:

a) Using equipment which fail to satisfy the electricity safety standards as provided for, thus threatening to cause serious incidents to electricity grids, unsafety to people and equipment;

b) Breaching the provisions in Clauses 5 and 6 of Article 39 of this Decree;

c) Obstructing the inspection by electricity sellers in the performance of the electricity trading contracts;

d) Committing acts of fraudulence in using electricity;

e) Using electricity, thus causing danger to people, animals and property of the State and people, adversely affecting the environment;

f) Deliberately falsifying the operation of measuring and counting system;

g) Other cases at the request of the competent State bodies.

6. The electricity sale shall resume only after the buyers fully execute the competent authorities' decisions on handling of violations prescribed in Clause 5 of this Article and pay charges for electricity switch-on and switch off under regulations of the Ministry of Industry.

7. The Ministry of Industry shall prescribe the order and procedures for stopping the electricity supply.

**Article 42.-** The electricity sellers shall have the duty:

1. To sell in adequate volume (capacity, electric energy), ensure stable quality (current, voltage) for the buyers according to the provisions in Article 31 of this Decree and the agreement in the contracts.

2. To make written notices and post up at electricity trading transaction places the relevant law provisions and the sellers stipulations, which the electricity buyers should know for joint implementation.

3. In case of electricity shut-off according to plans, to notify such to the electricity buyers at least 5 days before the time of electricity break in the following forms:

a) Sending written notices to organizations and individuals that use electricity for production activities and electricity users being organizations and individuals that have exclusive transformer stations;

b) Publishing announcements on the mass media for organizations and individuals using electricity for daily life.

4. To break off electricity strictly at the time already announced. In cases where the electricity buyers request the change of electricity-shut-off time, the buyers shall have to notify such to the sellers at least 48 hours before the time of electricity break. The electricity sellers shall have to consider and reasonably settle the request of the electricity buyers.

If the electricity shut-off cannot be delayed, the electricity sellers can shut-off the electricity according to plans but shall have to inform the buyers thereof at least 24 hours before the announced time of electricity shut-off.

Where the electricity seller agrees to change the time of or delay the electricity shut-off, the electricity buyers must be informed thereof 24 hours before the announced time of electricity shut-off, except for *force majeure* cases.



5. When electricity grid is hit by an incident, thus causing power failure or urgent electricity shut-off to handle dangerous circumstance, important organizations and individuals that use electricity in great volume must be promptly notified of such as of well as the expected time of electricity re-supply.

6. To handle the incident within 2 hours as from the time the electricity buyers report on power failure; where the incident cannot be overcome within the above-said time limit, the electricity sellers shall have to promptly inform the electricity buyers thereof.

7. To compensate the buyers for the damage caused by the sellers according to regulations and agreement in the contracts, except for *force majeure* cases.

8. To effect the signing of contracts and electricity sale as provided for in Article 27 and 28 of this Decree.

9. To reach agreement with owners when using the electricity projects of the buyers to supply electricity to other electricity users being organizations and individuals.

10. To submit to the examination and inspection by competent State bodies as provided for by law.

11. To fulfill other obligations as prescribed by law.

## Section 6. RIGHTS AND DUTIES OF THE ELECTRICITY BUYERS

**Article 43.-** The electricity buyers shall have the rights:

1. To choose the electricity sellers.

2. To request the electricity sellers to sign electricity sale contracts with all conditions prescribed in Articles 27 and 28 of this Decree.

3. To request the electricity sellers to supply electricity in adequate volume, ensuring the electricity quality and supply time inscribed in the contracts.

4. To request the electricity sellers to immediately handle incidents of power failure or the danger of possible blackout, unsafety to people and property and adverse impacts on environment.

5. To request the electricity sellers to supply or recommend legal documents concerning the electricity purchase and sale.

6. To request the electricity sellers to compensate for damage caused by the seller as provided for in Clause 7, Article 42 of this Decree.

7. To coordinate with the electricity sellers in inspecting the observance of contractual terms. If the electricity sellers fail to strictly comply with the provisions in contracts, the electricity buyers shall request the sellers to confirm such in writing and together with the sellers work out remedial measures.

**Article 44.-**

1. The electricity buyers shall have the duties:

a) To register electricity use demands with the electricity sellers, sign contracts and fully comply with the provisions and agreements in the electricity trading contracts;

b) To immediately reduce the current capacity to the limited capacity according to the sellers' notices upon *force majeure* incidents to the electricity system;

c) To use electricity strictly according to technical process, in a safe and thrifty manner;

d) To immediately inform the electricity sellers of any damage or doubtful inaccuracy of measuring and counting equipment upon the detection thereof;

e) To send written notices to the electricity sellers 15 days in advance on the requests, if any, for changes in contractual terms for joint discussion about amendments to the contracts;

f) To notify the electricity sellers 15 days in advance of the requests for termination of electricity trading contracts. Within 5 days after receiving the electricity buyers' notices, the electricity sellers and the buyers shall proceed with the liquidation of the contracts according to regulations;

g) To create favorable conditions for the electricity sellers to inspect the performance of electricity trading contracts, the realization of requests and proposals of competent State bodies as provided for by law;

h) To compensate the sellers for damage caused by their faults according to law provisions and the specific agreements in the electricity trading contracts;

i) To fulfill other obligations as prescribed by law.

2. Apart from the duties prescribed in Clause 1 of this Article, the electricity buyers being organizations and individuals using electricity must not sell electricity to other electricity-using organizations and individuals if not so agreed upon by the electricity sellers, except for special cases of satisfying unexpected demands or incidents, which must, however, be reported to the electricity sellers.

## Chapter V

### SUPPLY OF ELECTRICITY TO INDUSTRIAL PARKS

**Article 45.-**

1. The investment and electricity grid management boundary between the electricity seller and the electricity buyers for the industrial parks, export processing zones and hi-tech parks, called the industrial parks for short, is the land boundary of the industrial parks, decided by the competent authorities.

2. The connection point and form shall be agreed upon in writing by the two parties.

#### **Article 46.-**

1. Electricity for industrial parks may be supplied from the electricity sources of the national electricity system or from independent electricity sources of other organizations and/or individuals after the Ministry of Industry gives its written consent.
2. In the course of elaborating feasibility study reports on the industrial parks, the industrial park investors must reach agreement with the electricity sellers on the plans to supply electricity for the industrial parks. After the Prime Minister issues decisions on the establishment of industrial parks, the investors constructing and doing business with the industrial park infrastructure shall have to sign the written commitment with the electricity sellers on the electricity use demand in each period. The supply of electricity to the industrial parks shall be effected only after the organizations doing business with electricity in the industrial parks sign electricity buying contracts with the electricity sellers.
3. The investors in electricity projects in the industrial parks have the right to sign contracts with units licensed for electricity activities on hiring the management of the operation and repair of their electricity systems.

**Article 47.-** The investment in the construction of electricity grids in the industrial parks must conform to the objectives of the projects on infrastructure investment and business, already approved by the Prime Minister and the planning on electricity supply to industrial parks, approved by the People's Committees of the provinces or centrally run cities.

**Article 48.-** The independent plants' sale of electricity to subjects outside the industrial parks must be permitted by the investment licensing bodies after obtaining the consent of the Ministry of Industry.

**Article 49.-** Only enterprises licensed for electricity activities can buy and sell electricity in industrial parks. In cases where electricity is bought from the national electricity system for re-sale, the electricity buying and selling prices shall comply with the provisions in Clause 2, Article 38 of this Decree.

#### Chapter VI

#### ELECTRICITY SUPPLY TO RURAL, MOUNTAINOUS AND ISLAND AREAS

**Article 50.-** The investment in development and management of rural, mountain and island electricity grids (hereinafter called the rural electricity grids) shall be effected according to the following principles:

1. The rural electricity grids are infrastructure, with investment made according to the principle of "joint efforts of the State, people, the central government and localities", diversification of the mode of investment and management of electricity supply.
2. Investors shall construct electricity grids in localities on lists B and C prescribed in the Government's Decree No. 51/1991/ND-CP of July 8, 1999 detailing the implementation of the Domestic Investment Promotion Law (amended), may borrow preferential loan capital at interests lower than those on the State's development investment credit loan capital.

The Finance Ministry shall assume the prime responsibility and coordinate with the Ministry of Industry and the Ministry of Planning and Investment in guiding the implementation of this stipulation.

3. The ceiling sale prices of daily-life electricity to households using rural electricity shall be prescribed by the Prime Minister. The presidents of the People's Committees of provinces or centrally run cities shall set specific price level for each region.
4. The rural electricity managing organizations which buy electricity from the national electricity system for direct sale to rural households for use in their daily life shall enjoy tax exemption or reduction according to the provisions of law.

**Article 51.-** The investment in the construction or upgrading of rural electricity grids shall be effected as follows:

1. The medium-voltage transmission lines and low-voltage transformer stations shall be invested and managed by Vietnam Electricity Corporation, except otherwise provided for by the Prime Minister.
2. The low-voltage axial lines shall be invested with localities' mobilized capital sources.
3. The branch lines from the low-voltage axial lines to electricity users' locations shall be invested by electricity-using organizations and individuals.
4. The State shall provide funding support for construction of low-voltage axial lines and branch lines to people's houses in mountainous areas of regions II and III, border communes, families entitled to social policies as provided for by law.
5. For mountainous, island, deep-lying, remote areas and regions facing special difficulties, where the national electricity grids cannot reach or where the introduction of electricity from the national grids is non-beneficial economically, the construction of on-spot power sources such as mini-hydro-electric power stations, diesel power plants, solar power energy and other forms of energy shall receive financial support from the State and be entitled to other preferences according to the provisions of law.

#### Chapter VII

#### THE STATE MANAGEMENT OVER ELECTRICITY ACTIVITIES AND ELECTRICITY USE

**Article 52.-** The contents of the State management over electricity activities and electricity use shall include:

1. The promulgation, direction and organization of the implementation, of legal documents on electricity activities and use.
2. The elaboration, direction and organization of the implementation, of policies, planning and long-term plans on electricity development.
3. The appraisal and approval of electricity work investment projects according to division of management responsibility.
4. Granting of permits for electricity activities.
5. Promulgation and inspection of the observation, of standards, norms, eco-technical quotas in electricity activities and use.
6. Promulgation of electricity sale price index.

7. Examination, inspection and settlement of complaints and denunciations, and handling of violations in electricity activities and use.
8. Undertaking of international cooperation and management of export and import in the field of electricity activities.
9. Examination and inspection of safety of electricity works.
10. Provision of professional training and fostering for employees of the electricity industry; propagation and education of legislation among people on the use of electricity and the protection of electricity projects.
11. Commendation and penalties in electricity activities and use.

**Article 53.-**

1. The Government shall exercise the unified State management over electricity activities and use nationwide.
2. The Ministry of Industry is the body that assist the Government in performing the function of State management over electricity activities and use, having the following tasks and powers:
  - a) To elaborate and submit to the Government, the Prime Minister for promulgation or promulgate according to its competence legal documents on electricity activities and electricity use;
  - b) To organize the elaboration and appraisal of national electricity development planning and the planning on electricity development in Hanoi and Ho Chi Minh City, submit them to the Prime Minister for approval and manage the implementation thereof. To approve the electricity development plannings of the remaining provinces and centrally run cities.
  - c) To grant, adjust, extend, withdraw permits for electricity activities according to competence;
  - d) To fulfill its responsibility of State management over the electricity industry in the work of investment in the construction of electricity projects according to the responsibility assignment by the Government;
  - e) To promulgate and inspect the implementation of, standards, eco-technical norms and estimated construction unit prices of the electricity industry;
  - f) To conduct specialized inspection, settle complaints and denunciations and handle acts of violation in electricity activities and use according to competence;
  - g) To coordinate with the concerned ministries and branches in the management of export, import and international cooperation regarding electricity activities;
  - h) To organize the examination and inspection of the safety of electricity works;
  - i) To propagate, educate and guide the application of measures to save electric energy.
3. The ministries, the ministerial-level agencies and the agencies attached to the Government shall, within the scope of their tasks and powers, have to coordinate with the Ministry of Industry in exercising the State management over electricity activities and use according to the regulations of the Government.
4. The People's Committees of all levels shall perform the function of State management over electricity activities and use in their respective localities according to the regulations of the Government. The provincial/municipal Industry Services shall be the bodies assisting the People's Committees of the provinces and centrally-run cities to perform the function of State management over electricity activities and use in their localities.

**Article 54.-** The Industry Ministry's Inspectorate shall perform the function of specialized inspection of electricity activities and use according to the regulations of the Government.

Chapter VIII

COMMENDATION AND HANDLING OF VIOLATIONS

**Article 55.-** Organizations and individuals that record outstanding achievements in electricity activities and use, actively contributing to the cause of developing Vietnam's power industry shall be commended and/or rewarded according to the provisions of law.

**Article 56.-** The following acts shall be regarded as violations of legislation on electricity activities and use:

1. Conducting electricity activities without permits granted by competent bodies and business registration certificates; conducting electricity activities not according to the contents and time limits inscribed in the electricity activity permits and business registration certificates; conducting electricity activities even when having been suspended therefrom or deprived of the right therefor.
2. Granting electricity activity permits to unqualified organizations and/or individuals or refusing to grant or delaying the granting of electricity activity permits to qualified organizations and/or individuals under the regulations of the Ministry of Industry.
3. Investing in electricity development in contravention of the provisions in this Decree and other law provisions on planning and investment in electricity development.
4. Violating the process and regulations in electricity production, transmission and distribution; failing to obey the orders of electricity system regulation bodies at different levels.
5. Acts of violating the legislation on electricity activities and use by the electricity sellers shall include:
  - a) Delaying the signing of electricity buying contracts when the conditions for electricity trading are fully met; delaying the electricity supply after the electricity trading contracts have been signed;
  - b) Failing to ensure the electricity quality, volume and/or stability in electricity supply according to the signed contracts, except for *force majeure* cases;

- c) Switching the electricity on or off not according to the announced time table, except for cases prescribed in Clause 3, Article 41 of this Decree;
- d) Failing to notify, as prescribed, the buyers of the electricity grid incidents and delaying the repair of electricity grids hit by incidents, except for *force majeure* cases;
- e) Delaying the electricity connection to projects which have met all conditions for operation, without plausible reasons;
- f) Wrongly recording the numbers on meters, wrongly inscribing the invoices, selling electricity not at the prescribed prices;
- g) Using measuring and counting equipment which are below the prescribed standards;
- h) Using the buyers' electricity works without permission to supply electricity to other electricity-using organizations and/or individuals;
- i) Cutting off electricity supply to customers not subject to restriction upon electricity shortage, except for cases prescribed in Clause 3, Article 41 of this Decree;
- j) Obstructing competent bodies from electricity sale inspection;
- k) Failing to comply with the provisions on supply of information for electricity buyers in Clauses 2 and 3 of Article 42 of this Decree;
- l) Delaying or refusing to make compensations to buyers under decisions of competent bodies for damage caused by their own faults;
- m) Other acts of violating the legislation on electricity activities and use.

6. Acts of violating the legislation on electricity activities and use by the electricity buyers shall include:

- a) Delaying the signing of electricity trading contracts when the conditions for electricity trading are fully met, delaying the performance of signed contracts in case of electricity wholesale for resale to organizations and/or individuals using electricity;
- b) Using electricity not for purposes inscribed in the contracts;
- c) Failing to reduce capacity when so requested by the sellers due to *force majeure* incidents;
- d) Using electricity beyond the capacity registered in the additional charge diagrams inscribed in the electricity trading contracts during peak hours;
- e) Additionally using other electricity sources of the sellers besides the sources already inscribed in the contracts, except for cases where the electricity buyers are organizations and individuals wholesaling electricity for resale to other organizations and/or individuals;
- f) Supplying electricity to other electricity- using organizations and/or individuals through their own electricity works without the sellers' consent;
- g) Shutting off, repairing, removing electricity grid equipment and facilities of the sellers;
- h) Failing to liquidate contracts when not using electricity;
- i) Damaging electric equipment and/or facilities of the sellers;
- j) Delaying in making payment as provided for in Clauses 5 and 6 of Article 39 of this Decree without plausible reasons;
- k) Causing incidents to electricity system of the sellers;
- l) Violating the regulations on electricity grid safety corridor;
- m) Using electricity and causing danger to people, animals, damaging property of the State and/or people, causing adverse impacts on environment;
- n) Committing fraudulence in using electricity in any form;
- o) Obstructing competent bodies from inspecting the electricity use;
- p) Delaying or refusing to pay the compensations to electricity sellers under decisions of competent bodies for damage caused by their own faults;
- q) Other acts of violating the legislation on electricity activities and use.

#### **Article 57.-**

1. Organizations and individuals violating the provisions in Article 56 of this Decree and other law provisions on electricity activities and use shall be handled as follows:

- a) Organizations and individuals committing acts of administrative violations in electricity activities and use shall be administratively sanctioned according to the Government's Decree on sanctioning administrative violations in the field of electricity;
- b) Organizations and individuals committing acts of breaching contracts shall be handled according to the provisions of legislation on contracts;
- c) Individuals violating regulations on electricity activities and use with adequate factors to constitute crimes shall be examined for penal liability; if causing damage, they shall have to pay compensation therefor according to the provisions of law.

2. The sanctioning competence and levels and the management of fines for acts of breaching contracts, administrative violations in the field of electricity activities and use shall comply with the provisions of law.

The Ministry of Industry shall assume prime responsibility and coordinate with the Finance Ministry in guiding the management and use of fines.

#### **Article 58.-**

1. The People's Committees at all levels may sanction acts of administrative violations in the field of electricity activities and use in their localities according to competence.

1. The specialized inspectorate of the power industry and other competent bodies may sanction acts of administrative violations in electricity activities and use according to the provisions of law.

**Article 59.-**

1. Organizations and individuals that are sanctioned for administrative violations or contractual breaches may lodge their complaints about decisions on sanctioning administrative violations or contractual breaches to competent State bodies or initiate lawsuits at competent courts according to law provisions.

2. Pending the settlement of their complaints or lawsuits, the sanctioned organizations and individuals shall still have to execute the decisions on sanctioning administrative violations or contractual breaches according to law provisions. When there are complaint-settling decisions of competent bodies or the courts' rulings, such decisions or rulings shall be complied with.

Chapter IX

IMPLEMENTATION PROVISIONS

**Article 60.-** This Decree takes effect 15 days after its signing. The other provisions contrary to the provisions of this Decree shall all be annulled.

Decree No. 80/HDBT of July 19, 1983 of the Council of Ministers promulgating the Regulation on electricity supply and use now ceases to be effective.

**Article 61.-** The ministers, the heads of ministerial-level agencies, the heads of agencies attached to the Government and the presidents of the provinces and centrally-run cities shall have to implement this Decree.

On behalf of the Government  
Prime Minister  
*PHAN VAN KHAI*

**THE GOVERNMENT**

**Phan Van Khai**