Pursuant Article 3, point 22), Article 22, point 11) and Article 42, paragraph (2) of Law on Electricity in the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH, 66/13), Article 3 paragraph (1) point q), Article 20, paragraph (2) and Article 39, paragraph (12) of Law on Usage of Renewable Energy Sources and Efficient Cogeneration (Official Gazette of the Federation of BiH, 70/13 and 5/14), Article 11 paragraph (1) point k) and Article 23, paragraphs (1) and (2) of Statute of Regulatory Commission for Energy in the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH, 24/14) and Article 32, paragraph (1) of Rules of Procedure of Regulatory Commission for Energy in the Federation of Bosnia and Herzegovina (Official Gazette of the Federation of BiH, 29/14), Regulatory Commission for Energy in the Federation of Bosnia and Herzegovina - FERK on its 9th regular session, held in Mostar on 6 June 2014 has adopted

RULEBOOK ON

OBTAINING ELIGIBLE ELECTRICITY PRODUCER’S STATUS

PART ONE – GENERAL PROVISIONS AND AIMS

Article 1
(Subject-matter)

(1) Rulebook on obtaining eligible electricity producer’s status (hereinafter called: Rulebook) of Regulatory Commission for Energy in the Federation of Bosnia and Herzegovina (hereinafter called: FERK) prescribes conditions and manner in which power producers, that generate electricity using waste or renewable energy resources or perform cogeneration of heat and electricity in efficient way, in accordance with environmental protection measures, are obtaining eligibility status.

(2) This Rulebook regulates submission, processing and decision upon application for obtaining eligible producer status in accordance with law, secondary legislation and other rules and regulations of FERK.

(3) This Rulebook prescribes the following:
   a) conditions for obtaining eligible producer status,
   b) mode of obtaining eligible producer status
   c) conditions that should be fulfilled by generation plant using renewable energy resources and cogeneration (hereinafter called: RES&CoGen), for legal and physical person, registered under applicable laws for performing power activity (hereinafter called: legal and physical person), to be able to obtain eligible producer status.
   d) sorting plants for power generation and for power and heat production from renewables depending with one or more units, depending on primary energy source or technology and installed capacity,
   e) validity period of producer's eligibility,
   f) procedures for supervision of operation of generation plant using RES&CoGen,
   g) how to renew and transfer eligibility status of producer,
h) mode and reasons to revoke producer's eligibility status.

(4) Producer's eligibility status is obtained during procedure of issuance or renewal of FERK's license for power generation, in accordance with law, secondary legislation and this Rule and other rules and regulations of FERK.

(5) Eligibility status may be obtained also through the procedure of changes and amendments of FERK's power generation license, in accordance with the law, secondary legislation, this Rulebook and other rules and regulations of FERK, in the case when licensee after obtaining FERK's license for power generation proves the existence of conditions prescribed within this Rulebook related to eligible producer status.

(6) Status of eligible producer can also be obtained in the procedure of transferring FERK's license for power generation, in accordance with the law, secondary legislation, this Rulebook and other rules and regulations of FERK in the case when licensee with FERK's power generation license that has obtained eligible producer status transfers issued license and eligible producer status onto other licensee that proves the existence of conditions prescribed within this Rulebook related to eligible producer status.

Article 2
(Purpose of the Rulebook)

The purpose of this Rulebook is establishing transparent procedures for timely and efficient review and processing of the application and for ensuring equal conditions for obtaining eligible producer status and making decision upon the application.

Article 3
(Definitions)

Definitions of terms used in this Rulebook, including those from the Law on Electricity in the Federation of Bosnia and Herzegovina and Law on Usage of Renewable Energy Resources and Efficient Cogeneration, and FERK's Rulebook on Licensing are as follows:

a) “biomass power plant” means plant intended for generation of electricity and/or heat with using biodegradable fractions, waste and agricultural remains, wood and other industries and from households.

b) “biogas power plant” means plant intended for generation of electricity and/or heat using landfill gas, gas from treatment of waste waters and agricultural biogas from agricultural waste

c) “tidal power plant” means plant intended for power generation using sea energy; waves, tide and ebb,

d) “power plants on municipal waste” means plant intended for generation of electricity and/or heat using liquid or solid waste or solid waste in combination with some fossil fuels or renewable energy resource, with the condition that waste share is at least 80% of primary energy,

e) “electricity generated from renewables” means electricity generated in plants that are using exclusively renewable energy resources (hereinafter called RES) and part of electricity generated from renewable resources in hybrid plants that use also conventional energy resources, including electricity generated in plants from renewable resources that is used for filling reservoir system but excluding electricity generated as a result of pump reservoir system,
f) “fossil fuels” means non-renewable energy resources originated from nature underground in long-lasting period from plants and animal remains, specifically, coal, oil and natural gas,

g) “geothermal power” means energy from natural underground heat sources,

h) “geothermal power plant” means plant intended for generation of electricity and/or heat using geothermal energy,

i) “hybrid power plant” means plant for generation of electricity and/or heat using two or more different energy-generating products from which at least one is renewable. Plants that are not using renewables cannot be considered as hybrid plants pursuant law and secondary legislation and this Rulebook,

j) “hydropower plant” means plant intended for power generation using watercourses,

k) “installed capacity of plant” means sum of rated capacities of all generation units in a plant,

l) “ cogeneration power plant” means plant where cogeneration is performed, or parallel generation of heat and electricity and/or mechanical energy. Cogeneration plant may include also peak load boilers, if they make one unit that is not possible to separate,

m) “ cogeneration” means sum of electricity and mechanical energy and useful heat from cogeneration,

n) “eligible producer” means producer that in individual facility for power generation generates electricity using waste or renewable energy resources in economically appropriate way, including combined cycle of generating heat and electricity, in compliance with environmental protection and that obtains such status with decision of authorised body,

o) “RES micro plant” means generating plant from RES, installed capacity between 2 kW and 23 kW, that has right on special incentive, pursuant law,

p) “rated capacity” means permanent capacity of generation unit in accordance to which unit has been ordered and designed. Data on electricity or heat rated capacity is specified on rated (factory) plate of electricity generator or heat generator and is in the technical specification designed by manufacturer,

q) “renewable energy sources” mean renewable non-fossil energy sources (wind, solar, geothermal sources, waves, tides, hydro energy, biomass, landfill gas, gas from the plants for waste processing and biogas)

r) “ generation facility” means facility for generation of electricity and or/heat, consisting of one or more generation units with joint ancillary facilities and joint point of electricity transfer,

s) “applicant” means legal or natural person submitting the application to FERK for obtaining status of eligible producer according to law and this Rulebook,

t) “agricultural gas” means gas resulting from natural biodegradation of organic substances without presence of oxygen (farm alkali, remains from agricultural production as from sugar beet, remains from pastures, separated biodegradable municipal waste of organic origin and similar)

u) “efficient cogeneration plant” means plant where cogeneration that fulfils energy savings conditions is performed,
v) “generation” means generation of electricity,
w) “producer for own needs” means natural or legal person that generates electricity for own needs,
x) “solar power plant” means plant intended for generation of electricity and/or heat using solar radiation,
y) “primary energy savings (PES)” means indicator of energy efficiency of cogeneration that is expressed as real savings of usage of energy from fuel in relation to equivalent generation in separate plants for generation of electricity and heat,
z) “wind power plant” means plant intended for generation of electricity using wind power, including individual plants that are connected with electricity generation, like one or more wind generators with ancillary substations and power lines, and control and other buildings and buildings used for wind power plant operation,


PART TWO – ELIGIBLE ELECTRICITY PRODUCERS AND RES&CoGEN PLANT

Article 4
(Eligible Producer)

(1) Eligible producer of electricity is electricity producer who in one or more generating units uses RES&CoGen and who obtained that status pursuant provisions of this Rulebook.

(2) Generation plant that uses RES&CoGen:
   a) individual generating power plant that uses renewable energy resources for power generation in economically appropriate manner, compliant with environmental protection and pursuant provisions of this Rulebook and
   b) plants of efficient cogeneration.

(3) Efficient cogeneration plant is cogeneration plant where cogeneration that fulfills conditions of fuel savings is performed as defined in Rulebook on Efficient Cogeneration, according the Law on usage of RES and CoGen.

Article 5
(Plants for usage of RES and CoGen)

Plants for usage of RES and CoGen may be as follows:
   a) hydro power plant,
   b) wind power plant,
   c) solar power plant,
   d) geothermal power plant,
   e) biomass power plant,
   f) biogas power plant,
   g) tidal power plant,
h) municipal waste power plant and
i) efficient cogeneration plant.

PART THREE – CONDITIONS FOR OBTAINING ELIGIBLE PRODUCER STATUS AND VALIDITY PERIOD

Article 6

(Conditions for Obtaining Eligible Producer Status)

An applicant may obtain eligible producer status if it fulfils the following conditions:

a) to have issued power generation license or it is been issued in parallel, including power generation in RES micro plants license,

b) to use renewable resources for power generation in power plant or to perform power generation in power plant that fulfils criteria of fuel savings pursuant Rulebook on Efficient Cogeneration,

c) that power plants using RES and CoGen fulfil conditions of environmental protection pursuant Law on Environmental Protection and other rules regulating this area,

d) to have, if there is prescribed obligation. Water permit and environmental permit and to fulfils conditions and obligations stated in mentioned documents;

Article 7

(Validity Period of Eligible Producer Status)

(1) Eligible Producer Status is valid until the date of power generation license validity.

(2) The renewal of eligible producer’s status is performed in the scope of procedure for power generation license renewal.

Article 8

(Conditions for Power Plant using RES and CoGen)

(1) Power plant for which application for eligible producers status is submitted shall fulfil condition that as primary energy product for power generation it uses renewable energy source or that it is cogeneration plant that fulfils conditions of fuel savings as prescribed within Rulebook on Efficient Cogeneration made by Federal Ministry of Energy, Mining and Industry.

(2) Additional conditions for individual power plant types are as follows:

a) For power plants that use biomass:

1) biomass shall represent at least 80% of total energy value of spent primary fuel on annual level,

2) shall operate in accordance with law and secondary acts, that prescribe waste and biomass handling;

b) for plants using municipal waste:

1) municipal waste shall represent at least 80% of total energy value of spent primary fuel on annual level
2) shall operate in accordance with law and secondary acts, that prescribe waste and biomass handling

PART FOUR – THE PROCEDURE FOR OBTAINING ELIGIBLE PRODUCER’S STATUS

Article 9
(Obtaining Eligible Producer’s Status)

(1) The procedure for obtaining eligible electricity producer’s status is started on applicant’s request.

(2) The application for obtaining eligible producer’s status shall be submitted on FERK’s forms given in Annex 1 and 2 of this Rulebook, as follows:
   a) form 1: OB.KP.01 – Application for obtaining/renewal of eligible producer’s status,
   b) form 2: OB.KP.02 – Application for transfer of eligible producer’s status,
   c) form 3: OB.KP.03 – Application for revocation of eligible producer’s status.

(3) Completed form OB.KP.01 shall be submitted separately for each individual power plant.

(4) Together with application for obtaining eligible producer’s status, submitted in accordance with this Article of the Rulebook it is necessary to attach documents proofing fulfilment of conditions set forth in Article 6 and Article 8 of this Rulebook.

Article 10
(Obtaining eligible producer’s status in the procedure for licensing or renewal of a license)

(1) The applicant for eligible electricity producer’s status may be any legal or natural person that submits application for licensing or renewal of the license for power generation and that has intention to generate electricity in one or more power plants that fulfil conditions set forth in this Rulebook.

(2) In the case stipulated in paragraph (1) of this Article, application for obtaining eligible producers shall be submitted on respective form from Article 9, paragraph (2) of this Rulebook, as an integral part of application for licensing/renewal of power generation license and shall be considered in joint procedure of licensing/renewal of the license.

(3) Eligible producer’s status in the case from in paragraph (1) of this Article shall be obtained based on the decision on issuance or renewal of the license, made by FERK, after ending the licensing/renewal of licence process, in the scope of which facts and evidences are to to be considered with relevance for deciding upon the status.

Article 11
(Obtaining eligible producer’s status in the procedure for amendments to the license)

(1) Applicant for eligible electricity producer’s status may be also FERK licensee for power generation that after receiving FERK’s license fulfils special conditions set forth in this Rulebook or that decides only after been licensed to submit application for eligible producer’s status.
(2) In the case from paragraph (1) of this Article, application of obtaining eligible producer’s status shall be submitted on respective form from Article 9, paragraph (2) of this Rulebook as integral part of the application and amendments to the license for power generation and then procedure shall be conducted as the procedure of amendments to the license.

(3) Eligible producer’s status, in the case from paragraph (1) of this Article is obtained based on the decision on amendments to the license, made by FERK, after ending procedure of amendments to the power generation license, in the scope of which facts and evidences are to be considered with relevance for deciding upon the status.

Article 12

(Obtaining eligible producer’s status in the procedure of license transfer)

(1) Applicant for eligible electricity producer’s status may be also legal person that for other licensee performs transfer of issued power generation license, and that intends to generate electricity in one or more generation plants that fulfils conditions related to this Rulebook.

(2) In the case from paragraph (1) of this Article, application for obtaining eligible producer’s status shall be submitted on respective form from Article 9, paragraph (2) of this Rulebook as integral part of application for power generation license transfer and it shall be considered as part of procedure for transfer of license.

(3) Eligible producer’s status, in the case from paragraph (1) of this Article is obtained based on decision on license transfer made by FERK, after finalisation of transfer of power generation license, in the scope of which facts and evidences are to be considered with relevance for deciding upon the status.

Article 13

(Conditions of Eligible Producer’s Status in the License)

(1) In the power generation license the conditions related to eligible producer’s status shall be prescribed.

(2) Integral part of the power generation license is special form on eligible producer’s status.

Article 14

(The Procedure)

(1) Application for obtaining eligible producer’s status submitted according Articles 9, 10, 11 and 12 of this Rulebook is processed and is decided upon in accordance with provisions of FERK’s Rulebook on Licensing and Rulebook on Public Hearings and Resolving Complaints, Disputes and Claims in single procedure, together with application for licensing or renewal, amendments or license transfer for power generation, under rules applied for this application.

(2) Exemption from provision from paragraph (19 of this Article are provisions related to intervenor and public hearings procedure, that are not applied on application for obtaining eligible producer’s status, except if FERK determined that they should be also applied on the subject application.
Article 15
(Supporting Documents)

(1) Supporting documents and information that are common for all generating units are submitted in one copy.

(2) In the procedure of amendments of power generation license that is started in the case of Article 11 of this Rulebook, supporting documents and information that applicant has already submitted to FERK in submitting application for power generation licensing are not to be submitted again, if there are no changes in their contents and/or validity period.

(3) Supporting documents shall be submitted in original or verified copy not older than 60 days.

Article 16
(Decision on Application Rejection)

FERK shall reject the application for obtaining eligible producer’s status in the following cases:

a) if applicant does not prove fulfilment of conditions for obtaining eligible producer’s status,

b) if applicant has given false data in earlier procedure at FERK based on which FERK has approved the status in that procedure

c) if power generation license has been revoked from the applicant.

Decision on rejection of application for obtaining eligible producer’s status shall be made by FERK on regular session pursuant Article 14 of this Rulebook.

Article 17
(Renewal, Transfer and Revocation of the Eligible Producer’s Status)

(1) Renewal, transfer and revocation of the eligible producer’s status is stared on eligible producer’s request, while revocation may also be started on FERK’s own initiative.

(2) The procedure of renewal, transfer and revocation of eligible producer’s status is conducted in the same way as procedure for obtaining eligible producer’s status, or pursuant Articles 9,10,11,12 and 14 of this Rulebook.

Article 18
(Renewal of Eligible Producer’s Status in generating plants using RES and CoGen)

(1) Eligible producer has right, after validity period of license expires and status of eligible producer expires to obtain this status again under procedure and conditions set forth in this Rulebook, in the scope of power generation licensing procedure.

(2) Eligible producer shall submit application for renewal of eligible producer’s status not later than 180 days before existing status validity period expires.
Article 19
(Revocation and Obtaining Eligible CoGen Producer’s Status Again)

(1) Based on report on realisation of operation of cogeneration plant in previous year, FERK revokes or recognizes again (after revocation) eligible status of producer for CoGen, depending if it fulfils conditions set forth in Article 8, paragraph (1) of this Rulebook.

(2) Based on annual production of energy FERK considers and informs producer on status of cogeneration plant and if it fulfils conditions from the Rulebook.

(3) Procedure for revocation or recognition of eligible producer’s status again for cogeneration plant is performed in the same procedure as done in obtaining the status.

Article 20
(Transfer of Eligible Producer’s Status)

(1) In the case that in period of validity of eligible producer’s status transfer of power generation license occurs, eligible producer’s status is transferred on new licensee, if all conditions pursuant this Rulebook are fulfilled.

(2) During submission of application for starting process of license transfer, licensee submits also application to FERK for transfer of eligible producer’s status with data and supporting documents on person to whom status will be transferred and evidences on fulfilment of conditions set forth in this Rulebook.

Article 21
(Revocation of Status)

FERK may revoke eligible producer’s status in the following cases:

a) if power generation license has been revoked from eligible producer,

b) if eligible producer does not respect or not fulfils conditions based on which status is approved pursuant law and this Rulebook.

PART FIVE - REGISTRY

Article 22
(Eligible Producer’s Registry)

(1) FERC shall keep a registry of eligible producers that is integral part of registry of licensees and initial approvals for construction of direct line, according Rulebook on Licensing.

(2) Registry of eligible producer’s shall consist of all paper (file) that contains all documents and enclosures related to the same subject matter which comprise the special unit.

(3) Registry paper on each status and which is integral part of registry paper related to license, consists of:

a) application for obtaining eligible producer’s status;

b) information and documents submitted with application for obtaining eligible producer’s status

c) documents related to a public hearing;

d) decision on application for obtaining eligible producer’s status;
e) decision on amendments, renewal, transfer or revocation of eligible producer’s status; and  
f) legal remedy to authorized institutions on FERK’s decisions.  

(4) FERK shall keep the summary registry of eligible producers, as integral part of summary registry of licenses and initial approvals for construction of direct line, in electronic form, that contains the following data:  
a) ID number of eligible producer’s;  
b) entry date in the eligible producer’s registry;  
c) name and seat, or name and address of eligible producer;  
d) name, type and basic parameters of generation plant  
e) validity period of eligible producer’s status;  
f) date of the decision.  

(5) FERK shall keep in electronic from a list of all pending applications that are not decided upon.  

(6) FERK shall make available to the public, for review and copying, all documents that are related to its jurisdiction in approving eligible producer’s status, except any confidential information in accordance with FERK’s rulebook prescribing protection of confidential information.

PART SIX - MONITORING

Article 23  
(Monitoring)  
FERK shall perform monitoring of eligible electricity producers.  

Article 24  
(Monitoring Performance)  
FERK shall perform monitoring of eligible producers in manner prescribed in Rulebook on Licensing together with monitoring of licensed power generation activity.

PART SEVEN -TRANSITIONAL AND FINAL PROVISIONS

Article 25  
(Application Enclosures)  
The integral parts of this Rule is Attachment 1 containing the forms for submission of application for obtaining, renewal, transfer and revocation of eligible producer’s status.  

Article 26  
(Legal Protection)  
(1) Decision of FERK on obtaining eligible producer’s status is final.  
(2) The party who is not satisfied may start an administrative dispute at a court of jurisdiction.
Article 27
(Amendments to the Rulebook)

(1) FERK has the right and obligation to change this Rulebook according amendments of law or secondary legislation.

(2) FERK follows and analyses the effects of the implementation of this and adjusts its provisions according to the changed circumstances.

Article 28
(Interpretation of the Rulebook)

(1) Interpretation of the provisions of this Rulebook is made by FERK.

(2) Amendments to this Rulebook are administered through the same procedures applicable to its adoption.

Article 29
(Entry into Force)

This Rulebook enters into force on the eight day following the day of its publication in the Official Gazette of the Federation of BiH.

No. 01-07-487-02/14
Mostar, 6 June 2014
FERK PRESIDENT
Risto Mandrapa