



**SERBIA:  
NEW DECREE ON POWER  
GENERATION AND COGENERATION  
INCENTIVES**

**JPM**

JANKOVIĆ POPOVIĆ MITIĆ



Serbia: New Decree on power generation and cogeneration incentives  
Publisher: JPM Janković Popović Mitić  
NBGP Apartments, 6 Vladimira Popovića street  
www.jpm.rs  
Authors: Nikola Djordjević, Partner and Milica Kosutic, Associate  
Design and prepress: JPM Janković Popović Mitić  
Copyright: © JPM Janković Popović Mitić 2016. All rights reserved.

**Disclaimer:**  
The sole purpose of this publication is to provide general information about specific topics. It makes no claims to completeness and does not constitute legal advice. The information it contains is no substitute for specific legal advice.

By this, readers are instructed to request the specialist advice on particular issues emphasized herein and to verify above introduced statements before relying on them.

If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact at JPM Jankovic Popovic Mitic.

## **New Decree on power generation and cogeneration incentives**

The Government of the Republic of Serbia enacted a new package of energy-related bylaws in June 2016, which, inter alia, regulate acquiring the status of privileged power producer and temporary privileged power producer, incentives granted to privileged power producers and the content of power purchase agreements between guaranteed suppliers and privileged power producers.

Investors have been particularly interested in the new elements introduced by the Decree on incentives for power generation from renewable energy sources and high-efficiency cogeneration (“Official Gazette of RS” No. 56/2016).

As compared to the previous Decree, this new Decree specifies a different incentive purchase price with regard to certain types of power plants operated by privileged producers. As for temporary privileged producers, according to the new Decree they will be entitled to 50% of the incentive purchase price stipulated in the Decree, until the beginning of the incentive period.

In addition, the Decree also specifies that the incentive purchase price will no longer be determined solely based on the type and installed capacity of the power plant, but that the maximum effective operating time of the power plant will also be taken into account. If a privileged power producer produces more power during an incentive year than the annual maximum power purchased from that producer at the incentive purchase price, as specified in the Decree, the Government imposes the obligation on the guaranteed supplier to purchase such additional power for 35% of the incentive purchase price.

Moreover, force majeure has been expanded to include new events such as emergency situations, acts of terrorism, revolution and strike. It is, however, specifically stressed that a strike of the privileged power producer’s employees or guaranteed supplier’s employees will not be considered a force majeure event, whereby the Government has envisaged potential avoidance of contractual obligations under power purchase agreements by invoking this event.

Quite important and positive new elements are seen in the other cases resulting in dormancy of rights and obligations under power purchase agreements, which include delays of competent authorities, resulting in hindering maintaining or acquiring of the privileged power producer status. Considering that the bureaucratic procedure is lengthy and that legal deadlines are frequently not observed in practice, this increases producers’ certainty in cases where the competent authorities’ delayed issuance of necessary acts jeopardizes the acquiring or maintaining of the privileged power producer status.

Still, the most important changes relate to the formula for calculating the incentive purchase price in high-efficiency cogeneration plants fueled by natural gas. Namely, this new formula specifies that the gas price change correction coefficient is no longer equal to the price of gas for the retail tariff buyer category, but to the unit price of gas for reserve supply consumers. In introducing this change the Government contemplated the fact that the Energy Law defines the gas market as a free market, and that, contrary to the unit price of gas for reserve supply consumers, the price of gas for the retail tariff buyer category can no longer reliably and clearly follow changes in the price of gas on the market.

In addition, the gas price change correction coefficient is no longer expressed in RSD; but rather in EUR. Investors in various projects have expressed their displeasure at the change of currency, feeling that the effect of the incentive measures will be diminished by changes of the RSD-to-EUR exchange rate. On the other hand, the Ministry of Mining and Energy is of the view that the G coefficient must not be expressed in any other currency, other than the one in which the incentive purchase price is expressed -- otherwise the privileged power producer would be afforded an unjustified increase in incentive purchase price simply by a change of the exchange rate.

Although the new Decree has only recently been enacted, there is already an ongoing discussion regarding the manner in which certain matters have been regulated. Investors believe that the new elements relating the formula for calculating the incentive purchase price negatively impact the financial terms of privileged power producers and those still in the process of acquiring such status, and that they could result not only in delays in delivery of currently active projects, but also in potential withdrawal of investors, fueled by the lack of certainty in cost-effectiveness of their investments.



JPM

JANKOVIĆ POPOVIĆ MITIĆ

JPM JANKOVIĆ POPOVIĆ MITIĆ  
NBGP Apartments, 6 Vladimira Popovića street  
11070 Belgrade  
Tel: +381 11 207-6850, Fax: +381 11 207-6899  
E-mail: [office@jpm.rs](mailto:office@jpm.rs), Online: [www.jpm.rs](http://www.jpm.rs)