

Recommendations for Removing Regulatory and Administrative Barriers for Better Use of Renewable Energy Sources

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American Chamber of Commerce in Croatia *Američka gospodarska komora u Hrvatskoj*

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Introduction

Further to the position paper of the American Chamber of Commerce in Croatia (AmCham) reflected in the "[Initiative for a Sustainable and Competitive Definition of Electricity Prices in Croatia](#)" from November 2022, which emphasizes the need for an incentive legislative and administrative framework for the electricity production of business entities for their own needs, AmCham prepared a new position which outlines the problems in practice and offers solutions for their removal.

The Ministry of Economy and Sustainable Development (MESD) has in the document "Assessment with Recommendations for the Removal of Barriers and Relief of Administrative Procedures which Limit Increased Use of Energy Obtained from Renewable Energy Sources" – Version 2, which is published on the basis of the MESD Decision (CLASS: 391-01/22-01/221, REG. NO: 517-07-1-2-22-8) generally properly addressed the barriers for the acceleration of setting-up and usage of renewable energy sources (RES).

Particularly, the process of connecting to the power grid is regulated by the following:

- A. the regulations defining spatial planning (Physical Planning Act, Building Act, Ordinance on simple and other buildings and works, spatial plans of local self-government units) and
- B. electricity regulations (Energy Act, Electricity Market Act, Act on Renewable Energy Sources and High-Efficiency Cogeneration and a series of regulations adopted or approved by the Croatian Energy Regulatory Agency (HERA) (https://www.hera.hr/hr/html/propisi_eenergija.html))

Therefore the listed recommendations should be amended in the following way:

- a) by taking into consideration the below-mentioned changes of specific procedures or applicable rules which still represent regulatory barriers for businesses who participate or want to participate in the RES market and
- b) by defining an action plan of activities that will solve technical limitations primarily in the part of the transmission network of HOPS (Hrvatski operator prijenosnog sustava d.d.), the only Croatian transmission network operator, which both citizens and businesses who participate and want to participate on the RES market face.

On those grounds, we propose the necessary changes to the applicable regulatory framework according to the following topics in which we addressed the challenges and the proposed solutions to these challenges:

1. Administrative procedures do not also take into consideration the tender issue

The administrative procedure should also take into consideration the issue of tenders, specifically, that the applicants cannot collect and prepare the necessary documentation within the given deadlines in order to be competitive in an open tender, which negatively impacts the development of RES.

Therefore, it is necessary to establish longer deadlines and/or reduce the required documentation.

2. Physical planning still presents a regulatory limitation for RES businesses

We welcome the proposed changes in the Bill on Amendments to the Physical Planning Act in relation to which an e-consultation has recently been completed regarding the following:

- the defining of the areas for the building of solar and agrosolar power plants,
- the enabling of the procedures for the exploration of hydrocarbons and geothermal water and the storage of hydrocarbons on land areas of the Republic of Croatia where there are no barriers in the spatial plan,
- the enabling of the construction of energy transport systems within all existing and/or planned corridors in accordance with the technical requirements of structures regardless of spatial plan conditions and the enabling of the introduction of alternative fuels into the existing electricity/energy plants.

However, the abovementioned is not enough considering the challenges the entrepreneurs face in practice, such as:

A. Inconsistency in the work of state services and the need for a clear determination of responsibilities

- Inconsistency in the work of municipalities and counties, and also the counties and the Republic of Croatia;
- Although some of the projects have state-level significance, in later stages, the state transfers them to the counties. In earlier stages, the counties know nothing about these projects, and they refuse to communicate about the projects, even though it pertains to their territory and the state will nevertheless ask for their opinion before it transfers the jurisdiction to them;
- The development of RES projects often depends on the agility and the speed of institutions/bodies governed by public law, the primary task of which is not dealing with such development. They deal with this task incidentally and often lack the knowledge to objectively assess the issues, which significantly slows down or prevents the development of the projects;
- Lack of coordination between the work of ministries, i.e., between the Ministry of Economy and Sustainable Development to which the application for the evaluation of the need for an environmental impact assessment of the intervention is submitted and the Ministry of Agriculture as the most frequent party in this procedure where all applications are held up 3 to 6 months at a time, because of

which the Ministry of Economy and Sustainable Development cannot issue the requested evaluation;

- Lack of cooperation between the distribution system operator (HEP-ODS) and the transmission system operator (HOPS), more specifically, the lack of established general conditions of connection for the entire Croatia, resulting in situations in which each distribution area (DA) / transmission area (TA) can dictate the locally determined conditions;
- Although there should be a legal interest for obtaining a building permit, for obtaining the grid connection study (EOTRP) – as the core document for the development of RES projects (besides the spatial-planning documentation), the abovementioned is not necessary. Instead, HEP-ODS / HOPS must consider every case of connection to the distribution/transmission network, which significantly slows down the system and allows speculators to work and block real investments.

B. Inconsistency in the spatial-planning documentation or its lack of preparation for the acceptance of RES investment projects

- For agricultural areas of poorer quality for which there are no environmental barriers for the development of RES projects, the spatial-planning documentation does not provide for them, even though such areas remain uncultivated and desolate;
- For entrepreneurial/economic zones for which the spatial development plan for the municipality (PPUO) permits RES project development, they often do not have an urban development plan (UPU) or a detailed development plan (DPU);
- For entrepreneurial/economic zones for which the spatial development plan for the municipality (PPUO) allows RES project development and which have an adopted UPU or DPU, usually, the UPU or the DPU is not favorable for RES project development since there is detailing regarding the form and the surface area of plots, parking spaces, etc., even though the zones remain unused and desolate because the UPU/DPU did not regulate the communal infrastructure for the zone, which would allow its usage for potential users;
- For projects covering two different land types according to the spatial plan (business/agricultural) or areas of two plans (such as PPUO/PPUG and DPU/UPU); although it is a single project, there is no general or determined mechanism of obtaining a building permit in such a case;
- For cases when the investor is ready to align the spatial-plan documentation at his/her own cost in cooperation with the self-government unit, and it is the intention of the self-government unit to allow the abovementioned due to a lack of funds within the self-government unit, it is sometimes still not possible to do, resulting in the RES project development being halted or failing;
- A lack of a state spatial plan which encompasses larger RES projects and with which county spatial plans should be aligned creates problems in the development of RES projects.

C. Issues with Environmental conditions

- Except for the previously mentioned procedure of the Evaluation of the Need for an Environmental Impact Assessment of the intervention lasting 3-6 months,

which slows down the development of every RES project, some self-government units have decided to implement the environment protection study in the spatial plans, thereby inserting rigorous and detailed environmental conditions into the spatial plans. Because of that, the development of RES projects comes into question due to their technical impracticability and unprofitability. Such conditions are often unfounded and insufficiently thought out since every project still has to go through the Evaluation of the Need for an Environmental Impact Assessment or the Strategic Evaluation of the Impact on the Environment and the Environmental Network.

D. Issues Specific to Obtaining Permits

- Although the system got significantly faster by implementing the eDozvola (e-license), the cases involving the further processing of documentation and supplementing applications are still slow because there is no general or determined mechanism of further processing / supplementing on the go. If a public sector body "knocks down" the eKonferencija (e-conference) by issuing conditions/opinions, after the further processing of documentation / supplementing of the application, the entire e-conference must still be repeated, and each shortening of the procedure depends solely on the officer managing the procedure or on the person issuing the conditions/opinion, which means that it is still largely dependent on the human factor instead of the fast and straightforward system itself.
- A lack of due care / officers being unfamiliar with the scope and the process of issuing special conditions, which often leads to relevant public sector bodies being unfamiliar with the process of issuing special conditions, or lack of due care / knowledge on the part of the person issuing the conditions, which often leads to the special conditions not being sufficiently detailed or accurate, which prolongs the process of obtaining a permit or leads to complications during the execution phase.

E. Issues Related to the Cadaster and Land Allotment

- There are no general, established mechanisms for obtaining a building permit and performing the allotment for cadastral parcels that are within one area but are separated by linear public areas, such as water management and drainage ditches under the jurisdiction of Hrvatske vode (Croatian public water management company) or thoroughfares/roadways/roads owned by units of local self-government / the Republic of Croatia, even though they have access to the public area through them, i.e., the said access can very easily be enabled by determining the right of easement / right of construction.
- A lack of knowledge on the part of cadastral offices / the State Geodetic Administration and a lack of coordination with land surveyors, which leads to requirements for entering the buildings themselves within the scope of the renewable energy project instead of having general and established requirements that would cover the whole territory of Croatia.

Also, the provisions of the Ordinance on simple and other construction buildings and works (Official Gazette Nos. 112/17, 34/18, 36/19, 98/19, 31/20, 74/22) need

to be analyzed, and provisions need to be made for more efficient construction of renewable energy sources on existing structures (garage roofs for example).

3. The implementation of the recent amendments to the Electricity Market Act has not led to an easier installation of renewable energy sources in practice

Below is a brief overview of the biggest challenges:

A. Article 16, paragraph 1 of the Act – Energy Certification

Article 16, paragraph 3 reads as follows: *“For the construction of a new production facility or energy storage facility, **except in the case of simple structures governed by regulations on physical planning and construction**, the Ministry shall carry out a public invitation to tender for the issuance of an energy certification for the construction of facilities for the production of electricity and/or thermal energy or energy storage facilities in accordance with objective, transparent, and non-discriminatory criteria.”*

According to the new Electricity Market Act, obtaining an energy certification is the first step in the development of renewable energy projects. Without the certification, connection to the electric power grid is not possible, nor are any of the other steps in the development of renewable energy sources, i.e., obtaining the location and building permit. Pursuant to the Act, the Ministry of Economy and Sustainable Development of the Republic of Croatia publishes a call for the submission of written tenders for participation in the public tendering procedure for the issuance of the energy certification.

Even though Article 16, paragraph 1 of the Act stipulates that it is not necessary to obtain an energy certification in the case of simple structures, experience in practice has shown that the part of the Article stating “except in the case of simple structures” is interpreted by HEP ODS as meaning that everything not explicitly stated in the Ordinance on simple buildings requires energy certification. For example, all power stations built at the same time as the building are interpreted as needing a building permit and therefore require an energy certification.

B. Article 25, paragraph 3 of the Act – the term active customer – the option of using the produced surplus of electricity at a different location or increasing the level of the permitted surplus of electricity produced

Article 25, paragraph 3 of the Act stipulates: *“The connected power in the direction of the supply of electricity to the grid at the billing metering point of the active customer referred to in paragraph 1 of this article **shall not exceed the connected power in the direction of the off-take of electricity from the grid at that billing metering point.**”*

We want to highlight that the customer cannot be active if they are limited in terms of production capacities.

Experience has shown that households that have their own production resort to actions such as shutting off their power stations to ensure that the amount of kWh produced does not exceed the amount used, i.e., they want to avoid being categorized as producers, which is a disadvantageous position for households and has an adverse effect on the production of electricity as such.

In addition, customers who have a large roof area without using large amounts of electricity themselves tend to opt for two connection points – one billing metering point for consumption (customer status), the other for production (producer status).

In view of the above, both households and businesses with multiple metering points should have the option to consume only the electricity they produce at any metering point they own. In addition, provisions should be made for increasing the limit of permitted consumption and using surplus electricity at another location with a time delay (summer and winter months).

In this case, the current legislative framework requires that the active customer be registered as a supplier, select themselves as their supplier, and sell electricity to themselves, which is absurd considering that it is a case of own production at a different location and the consumption of electricity for personal needs as opposed to selling for profit.

In conclusion, businesses dealing with renewable energy sources should be allowed to transfer electricity from the point of production to the point of consumption and pay a reasonable and regulated fee. We find similar practices in the telecommunications sector, which is highly regulated in terms of the payment of monthly fees for the use of the network capacity of operators at the wholesale level.

4. Distribution System Grid Code

- A.** Article 12, paragraph 2 of the Grid Code sets out the following: *"The division of grid users based on the nominal voltage at the point of supply or off-take:*
- *grid users with a point of supply or off-take at low voltage (LV), with connected power up to and including 500 kW and*
 - *grid users with a point of supply or off-take at medium voltage (MV), with a connected power exceeding 500 kW, or with a connected power lower than or equal to 500 kW in the event where the distribution system operator, by means of a Technical Study for Connection (hereinafter referred to as: the Technical Study) finds that there is no need to build a low-voltage grid or at the request of the grid user."*

The obligations from the second indent of the article should be amended in such a way that the plant and installation of an individual producer of connected power up to and including 500 kW is realized at no expense for the producers, which currently amounts to HRK 500,000 per substation. The substation should be provided by the operator and not by the producer.

In addition, limiting the customer's power at low voltage to 500 kW (exceptionally increased to 600 kW) is limiting for fast-charging stations. Given that fast-charging stations should be located in accessible locations, it is not logical to expect that a new facility, meaning a substation, will be built next to each one, which represents an additional cost incurred by the investor, and which significantly reduces the attractiveness of the investment.

B. *Article 47 defines that the plant and installation of an individual producer with a connected power of up to and including 500 kW shall be connected to the low-voltage grid according to the following criteria:*

- *the plant and installation of an individual producer with a connected power of up to and including 100 kW may be connected to the low-voltage line and*
- *to the low-voltage busbars in the TS 10(20)/0.4 kV transformer substation, the plant and installation of an individual producer with a connected power of up to and including 500 kW may be connected.*

We propose that the point of connection of the producer must be at the border of the catchment area, that is, the border of the investor's plot, regardless of the production power. The issue, in addition to technically incorrect solutions (transmission of produced electricity over long distances), is also the absurdity of the questionable development of the distribution grid, which depends on the connection conditions and the obtaining of the necessary construction permits in public areas. In the end, such a grid is not owned or used by the distribution system operator and is therefore unusable on the one hand and, on the other, represents a substantial financial burden for the investor.

In simplified terms, the point of supply, the point of connection, and the point of measurement do not have to be the same point.

C. *Chapter III of the Grid Code (also Chapter IX of the Electricity Market Act)*

The approach to connecting and creating technical conditions in the grid is changing – system operators are responsible for creating technical conditions in the grid in accordance with the 10-year grid development plans, which must be harmonized with zoning plans. The 10-year plan cannot be a precondition for the creation of technical conditions in the grid.

In addition, the investor must wait for the amendment of the 10-year plan (which takes up to a year) in order to obtain realistic technical conditions for connecting the facility. On the other hand, the operator will not include the structures in the 10-year plan without connection contracts in place. The above results in investors abandoning projects.

5. Impact on the natural environment

It is observed in practice that obligations are imposed in disproportion to any potential environmental impact of RES projects.

For instance, an environmental impact study is required instead of an environmental impact assessment. This particularly applies to comparably low-

power wind farms, which should be model designs included in the submitted documentation. Following the above, we propose to establish when it is required to prepare an environmental impact assessment.

6. Connection to the electrical power grid and development of a Technical Study by a licensed subcontractor

The Technical Study may also be issued by licensed subcontractors. However, it is important to ensure the quality of the Technical Study and its timely issuing.

7. Renewable energy communities must not be restricted in the part of a local-self government unit or to an electrical substation

In relation to renewable energy communities and citizen energy communities:

- Renewable energy communities are defined as legal persons meeting requirements of being located near renewable energy source projects they are developing or already own (which is equally defined by the Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources).
- The Electricity Market Act (EMA) and the Renewable Energy Sources and High-Efficiency Cogeneration Act (RESHECA) define the scope of activity of local self-government in compliance with European regulations defining this type of association in the vicinity of projects related to the production of electricity from renewable sources.
- Article 26 of the EMA restricts the activity of the communities to the local self-government unit and a single electrical substation.
- In order to accelerate production for own needs from RES, it is proposed to allow the supply of electricity from sources up to 10 MW from a producer community member to a consumer community member without any restrictions regarding the part of the LSG unit and/or a single electrical substation.
- We propose to apply the same solution to entrepreneurs/investors producing electricity for their own needs at remote sites.

8. Other

a) Development of network impact and protection coordination studies

In practice, the above studies represent impediments delaying the commissioning of power stations by months. This is not caused by the studies themselves as much as by the failure to supply RES entrepreneurs with input parameters needed for the studies.

Submission of the protection coordination study is a step a power plant investor must comply with before it is connected. In order to submit the study, the investor must receive input parameters from the operator. In practice, the operator is running late with the submission of input documents, thereby causing delays in

the overall process. This is another reason why investors give up on projects, negatively affecting the development of the market.

b) Introduction of monthly metering as the basis for the calculation of electrical power to avoid the problem of excess electrical power

Calculating the energy fed into the network against the existing 15-minute metering and payment of the network fee is unprofitable and not economical for the investors. We propose to introduce monthly metering to avoid irrational waste of produced electricity.

c) Necessity of investing in the modernization of transmission and distribution networks

Investments in the network, especially using income generated from the connection fee and network fees must be put towards the development of the transmission/distribution network. In order to achieve the above, it is necessary to ensure the separation and independence of system operators (HEP ODS d.d.) who are paid those fees.

d) Failure to adopt subordinate legislation within prescribed time limits

At the moment, no industrial consumers or producers may be connected to the network (i.e., projects cannot start) because the Croatian Energy Regulatory Agency (HERA) has not adopted the connections regulation even though it was required to do so by October 1. Hundreds of investments are on hold.

The following text contains a list of regulations which were adopted and which should be adopted, and we are asking for support for their expedited adoption because they are significant for the development of the market:

Subordinate legislation to be adopted by HERA (more or less adopted):

Subordinate legislation	2021		2022												
	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
Ordinance on the general conditions for the use of the network and supply of electricity															
Ordinance on the change of supplier and aggregator															
Conditions on the quality of electrical power supply															
Criteria for issuing consent for construction and operation of direct lines															
Methodology for determining the electrical network connection fee															
Decision on the unit fee for network connection															
Methodology for determining the tariff items in the distribution of electricity															
Methodology for determining the tariff items in the transmission of electricity															
Economic assessment of all long-term costs and benefits of an advanced metering system for the market and individual end-buyers															

Subordinate legislation to be approved by HERA (none are adopted):

Subordinate legislation	2021			2022												
	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	
Rules on connection to the distribution network																
Rules on the application of substitution load curves																
Rules on non-standard services of distribution system operators also containing the NSS price list																
Distribution System Grid Code																
Rules on non-frequency ancillary services for the distribution system																
Rules on the management of distribution system congestion																
Rules on connection to the transmission network																
Rules on balancing the electrical power system																
Rules on non-frequency ancillary services for the transmission system																
Rules on the management of transmission system congestion																
Transmission system network rules																
Rules on non-standard services of transmission system operators also containing the NSS price list																
Rules on the organization of wholesale electricity markets																

e) Utilization of grants for entrepreneurs who wish to participate in RES production

It is necessary to organize the active participation of entrepreneurs and define reasonable criteria.

We point out the Modernization Fund as an example:

- In the first three years of use of the fund, the Republic of Croatia is by far the least efficient member, and it published no calls to award grants in contrast to other beneficiary countries where numerous schemes and individual grants have already been put in place, providing hundreds of millions of euros. There were two procedures of statement of interest conducted in 2020 and 2021 where numerous projects were submitted, but the conditions of the calls for proposals were defined independently of the submitted projects and their specific needs. There is a high degree of concern that there will be no time to spend an exceptionally large allocation available to the Republic of Croatia for energy transition at this rate.
- It is necessary to allow all available energy efficiency and RES utilization technologies without the Ministry of Economy and Sustainable Development selecting them indiscriminately (for instance, small wind farms, cogeneration, biomass boilers, and waste-to-energy should all be included). In other words, it is necessary to allow the applicants a greater opportunity to select the best technologies in compliance with applicable EU legislation.
- It is necessary to allow the financing of projects having no construction documentation at the time of application

- We propose to expand the sector of admissible activities beyond the processing industry (telecommunications, IT industry, wholesale/retail trade, etc.)

f) Change of the Physical Planning Act

Regulation on Environmental Impact Assessment, item 13, Annex II – it should be defined that for the purposes of obtaining a location and/or building permit for the connection of plants using RES as well as for the modification of a project regarding connection, it is NOT necessary to repeat the evaluation procedure on the need to assess the project's impact on the environment.

The Physical Planning Act, Article 43, paragraphs (3) and (4), which refer to the restrictions on the expansion of building areas in physical plans of the city or municipality, granting expansion only if the existing building areas outside the settlement have been built up to 50% or more of its area. We propose to add to the existing article that the above restriction does not apply to infrastructure facilities using renewable energy sources (solar power plants, wind power plants).

g) Support to companies for the transition to an energy- and resource-efficient economy, regardless of their activity

We propose that projects focused on the installation and use of renewable energy sources, in accordance with European priorities that focus on the green transition and climate action, should not be limited to only certain activities of undertakings. To illustrate, here is the Call for Grants NPOO.C1.1.1.R4-I1.01: "Grant Aimed at Companies for the Transition to an Energy- and Resource-Efficient Economy", which includes a provision that directly excludes interested tenderers whose products are listed on the list of goods for military purposes. By reviewing the legislative regulations of the European Union (the Treaty on the Functioning of the EU, Commission Regulation No 651/2014), it was found that the European Commission does not mandate a provision containing such wording. We believe that such a discriminatory approach applied in the Republic of Croatia has eliminated certain companies that are interested in the installation and use of renewable energy sources and improving energy efficiency. In view of the above, we suggest that the provision in question be removed from all future public calls.

In the same Call for Grants NPOO.C1.1.1.R4-I1.01: "Grant Aimed at Companies for the Transition to an Energy- and Resource-Efficient Economy", after the published amendments, a provision on the eligibility of tenderers was included, which made ineligible those tenderers with a share of energy costs in their income of less than 2.0%. We propose that the eligibility of tenderers not be conditional on a minimum share of energy costs in relation to revenues or any other business indicators. The decision is found to be discriminatory and illogical because the installation and use of renewable energy sources as a priority should not be conditional on similar provisions, especially taking into account the legislative and strategic framework of the European Union and, therefore, of the Republic of Croatia, which strives to transition to clean and more accessible energy, encourage green and blue investments, decarbonize buildings, develop a circular economy, etc.

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