

ENERGY INDUSTRY ACT

B.E. 2550

Bhumibol Adulyadej P.R.

Given on the 9th Day of December, B.E. 2550
Being the 62nd Year of the Present Reign

By Royal Command of His Majesty King Bhumibol Adulyadej, it is hereby proclaimed that.

Whereas it is deemed appropriate to enact a law on the energy industry operation;

This Act contains some provisions restricting the right and liberties of an individual set forth in of Section 29 together with Section 33, Section 41, Section 42 and Section 43 of the Constitution of the Kingdom of Thailand, which was endorsed in the enactment of this law.

Be it, therefore, enacted an act by the King's Most Excellent Majesty, by and with the advice and consent of The National Legislative Assembly, as follows:

Section 1. This Act shall be called the "Energy Industry Act, B.E. 2550"

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. This Act shall not apply to the following cases:

- (1) Petroleum businesses under the law on petroleum, exclusively those located in the exploration blocks or between the exploration blocks that are associated with each other.
- (2) Petroleum businesses under the law on Thailand-Malaysia Joint Authority and the law on other joint organizations of the like nature, exclusively in the joint development areas or others with the same purpose.
- (3) Safety standard of transportation and storage of fuel oil under the law on fuel oil control.
- (4) The application to be a fuel oil trader, the report on the trade volume, the reservation and the quality of fuel oil under the law on fuel oil trade.

Section 4. This Act shall apply to the operation of energy industry throughout the Kingdom.

Section 5. In this Act,

This English translation was prepared by Chandler and Thong-ek Law Offices Limited. Although care was taken to render the translation as reliable as possible, it does not carry any legal authority. Only the original text in Thai has legal force.

“Energy” means electricity or natural gas.

“Renewable energy” means renewable energy under the law on the National Energy Policy Council.

“Natural gas” means hydrocarbon compounds with methane being the major component, in the form of gas or liquid.

“Energy industry” means the electricity business, the natural gas business or the energy network system business.

“Electricity business” means the production, procurement, transmission and distribution of electricity or control of a power system.

“Natural gas business” means the natural gas transmission through pipelines through natural gas network system, natural gas storage and transformation of natural gas from liquid to gas, natural gas procurement and wholesale, or natural gas retail through natural gas distribution system, exclusive of the natural gas business operation in the transportation sector.

“Energy network system” means a power network system or a natural gas network system.

“Power network system” means a power transmission system or a power distribution system.

“Power system” means the power generation system, the power transmission system and the power distribution system under the operation and control of a licensee.

“Power generation system” means the power generation system of a licensee from the power plant to the connecting point with the power network system, including the system of supply of fuel used in power generation.

“Power transmission system” means the system that transmits electricity from a power generation system to a power distribution system, including the power system operator controlling that given power transmission system.

“Power distribution system” means the system that transmits electricity from a power transmission system or power generation system to power consumers who are not a licensee, including the power system operator controlling that given power distribution system.

“Natural gas network system” means a natural gas transmission system or a natural gas distribution system.

“Natural gas transmission system” means a pipeline system used for receiving natural gas from a natural gas purchasing point and for transmitting it to a natural gas distribution point or a natural gas distribution system or a power plant of the Electricity Generating Authority of Thailand or a power plant of an Independent Power Producer, including the equipment or any other thing necessary for receiving and transmitting natural gas.

“Natural gas distribution system” means a pipeline system connecting with the natural gas

transmission system, including the equipment or any other thing necessary for the distribution of natural gas.

“Energy network system operator” means the power system operator or the natural gas transmission operator.

“Power system operator” means the agency responsible for the power system control.

“Energy industry operation facility” means a building, a location, machinery, an energy network system and any other equipment used in the energy industry operation.

“Tariff” means the price of energy per unit, compensation or conditions of providing services, other fees that a licensee charges to energy consumers.

“Kingdom” means to include the continental shelf belonging to Thailand according to the international law principles and to the contracts executed with foreign countries.

“Fund” means the Power Development Fund.

“License” means a license for the energy industry operation.

“Licensee” means a person who has been granted a license for the energy industry operation.

“Commission” means the Energy Regulatory Commission.

“Office” means the Energy Regulatory Commission Office.

“Secretary-General” means the Secretary-General of the Energy Regulatory Commission Office.

“Competent official” means a person appointed by the Commission for the execution of the work under this Act.

“Minister” means the Minister in charge of the enforcement of this Act.

Section 6. The Minister of Energy shall have charge and control of the execution of this Act and shall have the power to issue Ministerial Regulations for the implementation of this Act.

The Ministerial Regulations shall, upon their publication in the Government Gazette, become enforceable.

DIVISION 1 GENERAL PROVISIONS

Section 7. The objectives of this Act are to:

- (1) promote adequate and secure energy service provision, while maintaining fairness for energy consumers and licensees;
- (2) protect energy consumers' benefits in terms of both tariffs and service quality;
- (3) promote competition in the energy industry and prevent abusive use of dominance in the energy industry operation;
- (4) promote fairness and transparency of the service provision of the energy network systems, without unjust discrimination;
- (5) promote the efficient energy industry operation and ensure fairness for licensees and energy consumers;
- (6) protect the rights and liberty of the energy consumers, local communities, general public and licensees in terms of participation, accessibility, utilization and management of energy under rules that are fair for all parties;
- (7) promote economical and efficient use of energy and resources in the energy industry operation, with due consideration of the environmental impact and equality of the natural resources; and
- (8) promote the use of renewable energy that has less adverse impact on the environment in the electricity industry operation.

Section 8. The government should establish the fundamental energy industry policy guidelines as follows:

- (1) Procure energy to adequately meet the demand, with good quality, security as well as reasonable and fair prices, emphasizing full exploitation and development of renewable energy and indigenous energy resources for the purpose of sustainable development of the country in social, economic and environmental aspects, including reducing dependency on imported energy.
- (2) Promote economical, efficient and worthwhile use of energy, including the promotion of application of efficient technologies as well as the distributed generation system in power generation, in order to reduce the investment in energy consumption, fuel costs in the manufacturing processes, health impacts and associated impacts resulting from energy production and utilization, while increasing the economic competitive edge of the country.
- (3) Promote the participation of the local communities and general public in the management and monitoring of energy-related operations to ensure that the management and tariff determination are carried out with transparency, with the

establishment of an energy operation regulatory body to protect energy consumers and to ensure fairness for all stakeholders.

- (4) Promote society to have knowledge, awareness and proper behavior for economical, efficient and worthwhile use of energy.
- (5) Promote electricity industry for fundamental public utilities, preservation of security and reliability of power system, with the state being responsible for power network system operation, power system operator, hydropower plant, which the Electricity Generating Authority of Thailand is the power transmission operator, the Metropolitan Electricity Authority and the Provincial Electricity Authority are the power distribution system operators and maintenance of appropriate proportion of power generation capacity of state electricity business.

Section 9. For the purpose of regulating the energy industry operation under this Act, the Minister shall have the following authority and duties:

- (1) propose to the cabinet the policy on the energy industry structure.
- (2) recommend to the National Energy Policy Council (NEPC) the policy on the energy procurement and the policy on diversification of fuel sources and types for power generation to ensure efficiency and security of the electricity business;
- (3) consider the power development plan, the investment plans of the electricity business, the natural gas procurement plan and the energy network system expansion plans, on which the Commission has provided opinion under Section 11(5), for submission to the cabinet for approval;
- (4) propose to the NEPC the policy on the protection against and solution to energy shortages;
- (5) propose to the NEPC the policy, targets and general strategies of the energy industry operation;
- (6) set the policy on service quality standards and energy industry operation standards;
- (7) set the policy on extensive provision of energy services as well as energy services for the underprivileged, including the policy dealing with the energy consumers' complaints;
- (8) recommend to the NEPC the policy on the contributions to be made to the Fund and on the spending of the Fund;
- (9) consider the operational plan of the Commission and the budget of the Office for submission to the cabinet for approval;
- (10) approve the rules and Codes of Conduct of the Commission members and the competent officials as proposed by the Commission under Section 11(8); and
- (11) perform other duties as stipulated under this Act.

All regulations, rules, notifications or stipulations generally applicable shall, upon their publication in the Government Gazette, become enforceable.

DIVISION 2 THE REGULATORY BODY FOR THE ENERGY INDUSTRY OPERATION

Part 1 The Energy Regulatory Commission

Section 10. The Energy Regulatory Commission shall be established, comprising one Chairman and six other members graciously appointed by His Majesty the King.

The Secretary-General shall be the Secretary to the Commission.

Section 11. The Commission shall have the following authority and duties:

- (1) regulate the energy industry operation to ensure the compliance with the objectives of this Act under the policy framework of the government;
- (2) issue the announcement determining the licenses for different types of energy industry operation, and recommend to the Minister the issuance of a Royal Decree determining the categories, capacities and characteristics of energy industry exempt from the license requirement;
- (3) establish measures to ensure security and reliability of the power system;
- (4) establish the regulations and criteria of the electricity procurement and the issuance of requests for proposals for purchase of power as well as monitor the selection procedures to ensure fairness for all parties;
- (5) propose to the Minister under Section 9 (3) the power development plan, the investment plans of the electricity business, the natural gas procurement plan and the energy network system expansion plans;
- (6) monitor energy industry operation by a licensee to ensure efficiency and transparency;
- (7) issue regulations or announcements and supervise service standards and quality, including measures to protect energy consumers against adverse impacts resulting from the energy industry operation;
- (8) propose to the Minister the rules and Codes of Conduct of the Commission members and the competent officials under Section 9 (10);
- (9) issue regulations or announcements on the determination of the policy and guidelines with regard to the stake holding or the conflict of interests of the Commission members and the competent officials;

- (10) issue regulations or announcements prescribing rules, procedures and conditions of contributions into the Fund and spending of the Fund in line with the policy of the NEPC under Section 9 (8);
- (11) issue orders and determine the administrative fines pursuant to Division 8 Administrative Enforcement;
- (12) provide comments or recommendations related to the energy industry operation to the Minister and the cabinet;
- (13) promote and support study and research on energy industry operation;
- (14) promote society and people to have knowledge and awareness of energy;
- (15) promote and support personnel development in order to increase efficiency in the energy industry operation;
- (16) promote the economical and sufficient use of energy, renewable energy and energy that has less adverse impact on the environment, with due consideration of the efficiency of the electricity business operation and the equality of natural resources;
- (17) coordinate with other agencies in relation to the execution of the duties stipulated in this Act; and
- (18) perform any other task as stipulated in this Act or in other laws as part of the Commission's authority and duties.

Any regulations, rules, announcements or stipulations to be generally enforced shall take effect upon their publication in the Government Gazette.

All orders applicable to specific cases shall take effect upon being notified in accordance with the rules and procedures for notifying administrative orders under the law on administrative official procedure.

Section 12. The Commission members must have practical achievements or hands-on experience illustrating profound knowledge, understanding and expertise or must have a minimum of ten years' experience in the following fields: energy, mathematics, law, science, engineering, economics, finance, accounting, natural resources and environmental management, consumer protection, or other fields which will contribute to the energy industry. In this regard, the working period in each of the mentioned fields can be accumulated.

The Commission shall comprise at least one member from energy field in respect of electricity business and natural gas business each.

Section 13. The Commission Members shall have the qualifications and shall not possess any disqualification as follows:

- (1) having Thai nationality;

- (2) having attained the age of 40;
- (3) must not be a member of the House of Representatives, a member of the Senate, a political official, a member of a local assembly or a local administrator;
- (4) must not hold any position in a political party;
- (5) must not be insane or mentally disordered;
- (6) must not be addicted to drugs;
- (7) must not be adjudged as bankrupt or have never been the dishonest bankrupt;
- (8) must not be adjudged incompetent or quasi-incompetent;
- (9) must not be a person sentenced to imprisonment by a court judgment and is in custody by a court warrant;
- (10) must not be a person sentenced to imprisonment for two years or more and has been released for less than five years on the date of nomination, except for an offense committed through negligence or a petty offense;
- (11) must not be sentenced by a court judgment or order to have assets confiscated by the state due to immoderate wealth or unusual increase of assets;
- (12) have never been dismissed, discharged or terminated from service of a government agency, a state enterprise or a private organization on the grounds of dishonesty, serious malfeasance, or quasi-corruption and quasi- misconduct;
- (13) must not be a judge of the Constitutional Court, an election committee member, a parliamentary inspector, a member of the Counter Corruption Commission, a member of the Auditor-General of Thailand, a National Human Rights Commissioner or a member of the National Economic and Social Advisory Council; and
- (14) have never been dismissed from office by the Senate.

Section 14. For the purpose of appointing the Commission Members, the Minister shall propose to the cabinet the names of a Screening Committee, comprising nine members, to be responsible for the screening of qualified persons to be nominated Commission Members. The Screening Committee shall comprise:

- (1) former Permanent Secretary of Energy, former Permanent Secretary of Finance, former Permanent Secretary of Industry, or former Secretary-General of the National Economic and Social Development Commission, totaling four persons;
- (2) one representative of the Federation of Thai Industries that is not an energy industry operator;
- (3) one representative of the Council of Engineers; and

- (4) one representative of the Rector of the State Higher Education Institute;
- (5) one representative of the National Economic and Social Consultant Council;
- (6) one representative of the non-profit private organizations whose works on consumer protection, natural resources and environment or energy are apparent for not less than five years.

In the event that the incumbents under (1) hereof cannot be all searched out, the appropriate former Permanent Secretaries of other ministries or equivalent offices in other government agencies shall be appointed in place of the missing required number.

The Screening Committee Members shall make public the details of their, their spouse's and minor children's business stake holding in any energy industry operators during the past two (2) years, and shall not have any personal legal cases against any energy industry operators during the mentioned period.

The Screening Committee Members shall have no right to be nominated Commission Members.

The Screening Committee shall elect one among them as Chairman of the Screening Committee.

The selection of the representative under (4) and (6) shall be in line with the criteria, procedures and conditions prescribed by the Minister.

The Office shall function as the administrative agency for the screening and selection of the Commission Members.

The Screening Committee Members shall receive remuneration and other expenses for their performance as determined by the cabinet.

The Screening Committee shall possess the qualifications and shall not possess the disqualification under Section 13.

Section 15. The selection and appointment proceedings of the Commission Members shall be as follows:

- (1) The Screening Committee shall consider and select seven persons with knowledge, understanding, expertise or experience as described under Section 12, having qualifications and not possessing any disqualification under Section 13, and shall submit the names of the selected persons to the Minister together with their particulars, which shall be clearly indicated or be accompanied with evidences illustrating that the persons are qualified in one of the fields specified under Section 12, including a letter of consent of each nominated person, and shall disclose to the public his/her particulars.
- (2) The Minister shall submit the names of the selected persons together with the particulars under (1) to the cabinet for approval.

- (3) In the event that the number of approved individuals does not meet the required number of the Commission Members to be appointed, the Screening Committee shall consider and select persons under (1) to be proposed to the Minister, for re-submission to the cabinet for approval.
- (4) For the initial appointment of the Commission Members, when all persons in the required number are approved by the cabinet as Commission members, all such persons shall meet and elect one among them as Chairman and inform the Prime Minister; the latter shall present the names of the nominated Commission Members to His Majesty the King for his gracious appointment as Commission Chairman and Members.

In executing the duties under this Section, the Screening Committee Members shall be officials under the Criminal Code.

The duration, rules, procedures and conditions of selection of Commission Members shall be as prescribed by the Minister.

Section 16. Apart from the qualifications and disqualifications under Section 13, a Commission Member:

- (1) shall not be a civil servant with an assigned post or a regular monthly salary;
- (2) shall not be a staff member or employee of a government agency, or a local government affairs bureau, or a commission member of or an advisor to a state agency that operates business or activities in the energy industry, and the spouse of such person must not be a Commission member of or an advisor to a state agency that operates business or activities in the energy industry;
- (3) shall not hold any position or be a partner of a partnership or a shareholder of a company, or an organization operating business or activities in the energy industry, including the spouse and any minor children of such Commission Member; and
- (4) shall not undertake any occupation or profession that has a stake or conflict of interests, either directly or indirectly, with the execution of duties as a Commission Member.

In submitting the names of the selected persons to the cabinet under Section 15 (2), the disqualifications of a Commission Member under paragraph one hereof shall be presented at the same time. When the cabinet has considered and approved a person under (1), (2), (3) or (4), the Prime Minister shall present his name to His Majesty the King for his gracious appointment only after the person has divested himself of the status specified under (1), (2) or (3) or has shown acceptable evidence that he has quit the occupation or profession under (4) within 15 days as from the date on which the cabinet has granted the approval. If no action is taken by the person within the specified period of time, he/she shall be considered as never having been nominated Commission Member. The screening and selection of an alternative person shall be made.

Section 17. The Commission Members shall hold office for a term of six years as from the date of appointment by His Majesty the King and shall be in office only for one term.

At the initial term, after three years' time, three (3) of the Commission Members shall be discharged from office by drawing lots; such a discharge is regarded as the completion of the office term.

The Commission Members who vacate office upon expiration of the term or by drawing lots shall continue performing their duties until replacing Commission Members are appointed.

The screening and selection of a new set of the Commission Members pursuant to Section 15 shall be made in advance, as deemed appropriate, in order that they are in place to take over the duties once the outgoing Commission Members complete their office term. The Prime Minister shall present the names of the nominated Commission Members to His Majesty the King for his gracious appointment.

Section 18. Upon the gracious appointment of the Commission by His Majesty the King, the Screening Committee shall cease their performance of duties.

Section 19. Apart from leaving office upon completion of the term, a Commission Member shall retire from his office upon:

- (1) death;
- (2) having attained the age of 70;
- (3) resignation;
- (4) lack of qualifications or having any disqualification under Section 13;
- (5) committing an act in violation of Section 16;
- (6) the cabinet has passed a resolution to dismiss the Commission Member from his office on the grounds of misconduct, negligence, dishonesty or incompetence.

When a Commission Member retires from his office prior to the completion of the term, the selection and appointment of the Commission Members shall be made to fill the vacancy under Section 15 and the remaining members shall continue performing their duties, whereby the Commission shall be regarded as comprising the remaining Commission Members, except for the case where the remaining Commission Members are less than four persons.

In the event that the Chairman of the Commission retires from his office pursuant to paragraph one, the Commission shall hold a meeting to elect one among themselves as Chairman and inform the Prime Minister, who shall present the nomination to His Majesty the King for his gracious appointment as Chairman of the Commission.

Section 20. Within two years after retirement from his office, an ex-Commission Member shall be prohibited from undertaking a career or professional practice that brings about money or any other benefits from a juristic person who undertakes an energy-related business.

The provision of paragraph one hereof shall also apply to a juristic person with the following characteristics:

- (1) any other juristic person that is a shareholder or a partner, holding no less than 25% of the shares in the juristic person under paragraph one hereof;

- (2) any other juristic person that is a shareholder or a partner, holding no less than 25% of the shares in the juristic person under (1); and
- (3) any other juristic person that is a shareholder or a partner, holding no less than 25% of the shares in the juristic person under (2).

The provisions of paragraphs one and two shall apply with the Commission Members or the consultant of such juristic persons.

Section 21. Within the period under Section 20, the Commission Member shall not hold the shares of the juristic person under Section 20 except such shareholding is taken by purchase in the Stock Exchange in the amount as specified by the National Counter Corruption Commission.

Section 22. At any meeting of the Commission, attendance of no less than half of the existing Commission Members shall be required to constitute a quorum.

The Chairman of the Commission shall preside over the meeting. In the event that there is no Chairman or the Chairman does not attend or cannot perform his duties, the Commission Members present shall elect one among them to preside over that meeting.

Any decision of the meeting shall be made by a majority of votes. Each Commission Member shall have one vote. In the event that votes on each side are equal, the Chairman of the meeting shall have an additional vote as a casting vote.

Section 23. The Chairman of the Commission and the Commission Members shall be considered as state officers of high ranks under the constitution's organic law on counter corruption.

Section 24. The Commission shall have the authority to appoint a sub-committee or a person to consider any matter or to carry out any task as assigned by the Commission.

The procedures for executing the duties of the assigned sub-committee or person shall be in line with those stipulated by the Commission.

Section 25. In carrying out the duties, the Commission, the sub-committee and the person appointed by the Commission under Section 24 shall have the authority to instruct a government agency or any person to furnish facts in writing, to be present to provide explanations, or to send relevant documents and evidence for consideration.

In performing the duties under paragraph one, the Chairman of the Commission, the Commission Members, the sub-committee and the person appointed by the Commission under Section 24 shall be regarded officials under the Criminal Code.

Section 26. Prior to issuing any rules, regulations, notifications or requirements of the Commission, which will affect a person, a group of persons or licensees, the Commission shall disclose the essential provision of such rules, regulations, notifications or requirements and provide the to-be-affected person, group of persons or licensees with the opportunity to provide opinion or information to the Commission, in accordance with the opinion-hearing process established by the Commission.

In case of emergency or urgent necessity to maintain the national energy security or in any other event provided in Ministerial Regulations, the Commission may not proceed under paragraph one, but it shall report the same to the cabinet.

Section 27. In issuing the Commission's administrative order, the law governing administrative procedures shall apply mutatis mutandis.

Section 28. In issuing any rules, regulations, notifications, requirements or orders of the Commission, the resolution of the meeting together with the facts and reasons including details of the rules, regulations, notifications, requirements or orders shall be recorded in the minutes of the meeting of the Commission.

The Office shall summarize the minutes of meetings of the Commission in the annual report of the Office containing the details of number of the attendance and absence of the meetings of the Commission, and they must be published and made public to interested persons or posted in the website of the Office.

The Commission shall provide written reasons for issuing any rules, regulations, notifications, requirements or orders affecting a person, group of persons or licensee within sixty days if so requested by the affected person, group of persons or licensee. If the said act of the Commission affects the public, reasons for such act shall be explained in the website of the Office.

In the annual report of the Office under paragraph two, the summary of the minutes of the meetings, number of attendance and absence of the meeting of the sub-committee and the performance of the person under Section 24 shall be made.

Section 29. The Chairman of the Commission and Commission Members shall perform their regular works in full time by receiving remuneration, expenses for performing their duties and other benefits as specified in a Royal Decree.

The remuneration and other expenses for performing duties of the Chairman of a sub-committee, sub-committee members and the person under Section 24 shall be in accordance with the rules of the Commission and publicized in the computer network systems of the Office.

Remuneration, expenses for performing duties and other benefits of Commission Members, sub-committee members and person under Section 24 shall be regarded as operating expenses of the Office.

Part 2

The Energy Regulatory Commission Office

Section 30. The Energy Regulatory Commission Office shall be established, being a state agency which is not the government authority or state enterprise under the law governing the budgetary procedures with the status of a juristic person, and shall be under the supervision of the Commission.

Section 31. The Office shall have authority over and responsibilities for general tasks of the Office and shall have the following authority and duties:

- (1) undertake the administrative work of the Commission;
- (2) receive fees as specified by law or determined by the Commission;
- (3) receive complaints concerning the energy industry operation;
- (4) study, compile, analyze and disseminate information related to the energy industry operation, competitive conditions of the energy industry operation, the load forecast and any other relevant information;
- (5) develop the revenue and expenditure estimates of the Office for submission to the Commission for approval; and
- (6) perform any other task as may be assigned by the Commission or as stipulated in this Act or in other laws to be the authority and duties of the Office.

Section 32. The operation of the Office is not subject to the laws on labor protection, labor relations and compensation. In this regard, the Secretary-General, staff members and employees of the Office shall receive benefits of no less than those specified in those laws.

Section 33. The Commission shall have the authority to issue regulations, rules or announcements on the general work administration, personnel management, budgeting, financing and assets, and other functions of the Office, especially in the following matters:

- (1) The internal division of the organizational structure of the Office and the scope of work of each division.
- (2) The establishment of posts, monthly salary scale and other remuneration of the Secretary-General, staff members and employees of the Office, including the permission to receive other salary and remuneration.
- (3) The determination of qualifications, selection, placement, appointment, probation, transfer, promotion, salary increase, vacation from office, removal, dismissal, service suspension, disciplines, disciplinary investigation and action, filing grievances, appeals, and punishment to be applied to the Secretary-General and staff members of the Office, as well as the methods and conditions of engaging employees of the Office.
- (4) The acting as officer-in-charge or the acting for the post of the Secretary-General and staff members of the Office.
- (5) The establishment of the uniform and clothing of staff members and employees of the Office.
- (6) The engagement and appointment of an expert or a specialist that will be helpful for the work of the Commission, including the remuneration rate for such an engagement.

- (7) The management and administration of the budget, assets and inventories of the Office.
- (8) The provision of welfare or other assistance for staff members and employees of the Office.

The regulations, rules or announcements under paragraph one shall be published in the Government Gazette.

Section 34. There shall be Secretary-General of the Office, who shall be responsible for the operation of the Office and report directly to the Chairman of the Commission. He shall be the commanding officer of the staff members and employees of the Office.

In the operation of the Office involving a third party, the Secretary-General shall be the representative of the Office. For this purpose, the Secretary-General may authorize any person to perform specific work on his behalf, provided that it is made in accordance with the regulations stipulated by the Commission.

Section 35. The Commission shall have the authority to select and appoint the Secretary-General.

The Secretary-General shall have the qualifications and shall not possess any disqualification described under Section 13 and Section 16, paragraph one and shall be able to fully perform his duty for the Office.

Section 36. The Secretary-General shall hold office for a term of five (5) years counting from the date of appointment and may be re-appointed; however, he cannot hold office more than two (2) consecutive terms.

Section 37. Apart from leaving office upon completion of the term under Section 36 or under employment contract, the Secretary-General shall retire from his office upon:

- (1) death;
- (2) having attained the age of 60;
- (3) resignation;
- (4) lack of qualifications or possession of any disqualification described under Section 13 or Section 16, paragraph one;
- (5) removal by the Commission's resolution passed by no less than two-thirds of votes of the existing Commission Members, on the grounds of serious misconduct, serious malfeasance or inability to perform his duties.

Section 38. The provisions of Section 20 and Section 21 shall apply to the Secretary-General and staff in the positions determined by the Commission.

Section 39. The Secretary-General and staff members of the Office shall be considered state officials under the constitution's organic law on counter corruption.

The Secretary-General shall be the officer of high rank under the constitution's organic law on counter corruption.

Section 40. The Office may have revenue and assets from the following:

- (1) the revenue or benefits derived from the execution of authority and duties of the Commission and the Office under this Act;
- (2) a general subsidy allocated by the government;
- (3) money and assets donated; and
- (4) interest derived from money or assets of the Office.

As for the revenue of the Office under paragraph one, excluding the revenue under (3), after having deducted the expenditures for the operation of the Office and other appropriate costs, the remainder shall be remitted to the treasury as state revenue. In the event that the revenue of the Office is inadequate for the mentioned operational expenditures and that no money can be obtained from other sources, the government shall allocate money from the government budget to the Office in the needed amount as general subsidy under (2).

Section 41. The Commission shall present to the cabinet for approval the operational plan, expenditure budget and revenue estimation of the Office in each fiscal year, including the plan of determination of fee rates and other benefits under Section 40 (1).

When the plan of determination of fee rates and other benefits under paragraph one is approved, the Commission shall set the fee rates and other benefits in line with such plan so that the Office would gain revenue according to the operational plan already approved by the cabinet.

With regard to the subsidy to be requested for allocation from the government budget, the Minister shall present to the cabinet the expenditure budget of the fiscal year for which the support is being requested, for the allocation of the general subsidy for the Office to be incorporated into the Annual Budget Bill or the Additional Budget Bill, as the case may be.

Section 42. The Office shall have the authority to possess, oversee, maintain, use and make profits from its assets, in line with the regulations prescribed by the Commission.

As for the assets that are state properties under the law on state properties, the criteria, methods and conditions of the possession, maintenance, usage and profit-making in relation to the state properties pursuant to the law on state properties shall be applied *mutatis mutandis*. The revenue derived from the aforesaid acts shall be delivered as the state revenue.

Section 43. All immovable properties acquired by the Office through purchase or exchange, using the revenue or assets of the Office, or through donation pursuant to Section 40 (3), shall become property of the Office.

Section 44. The accounting of the Office and of the Fund shall be made according to the international standards under the format, criteria, procedures and conditions specified by the Commission. The accounting separation shall be distinctly made, and there shall be an internal audit of the finance and accounting as well as inventories of the Office and of the Fund. A report on the audit outcome shall be made to the Commission at least once a year.

A staff member of the Office shall be assigned to specifically perform the duty of internal audit and shall report directly to the Commission according to the regulations set forth by the Commission.

Section 45. The Office shall prepare, financial statements and work sheets of the Office and of the Fund to be submitted to the auditor within one hundred and twenty (120) days as from the end of each fiscal year.

In each fiscal year, the Office of the Auditor General of Thailand or a third party appointed by the Commission with the approval of the Office of the Auditor General of Thailand shall audit and assess the spending of money and assets of the Office and of the Fund, by providing analytical comments on the spending in terms of objective compliance, economy, worthiness, efficiency and effectiveness.

The Office shall be an agency subject to auditing under the constitution's organic law on the government audit.

Section 46. At the end of each fiscal year, the Commission shall prepare an annual report to be presented to the NEPC, the Minister, the Cabinet and the House of Representatives and the Senate. The report shall also be made public. The report shall cover the earnings and expenditures which have not been remitted to the treasury as state revenue, the achievements of the Commission, the Office and the Fund in the past year, together with the rationales of the decisions made, the financial statements, the work sheets and the auditor's report, including the future operational plan of the Commission, the Office and the Fund.

DIVISION 3 REGULATION OF THE ENERGY INDUSTRY OPERATION

Part 1 License for the Energy Industry Operation

Section 47. Operation of an energy industry, either with or without remuneration, shall have to obtain a license from the Commission.

In issuing a license, the Commission shall announce and determine the type and term of license that corresponds with the capacity and characteristics of individual energy industry categories, taking into account the impact on the people, economic, social and investment worthiness including the competitive features of each industry category, and may impose conditions on a case-by-case basis.

The determination of categories, capacities and characteristics of energy-related businesses that are exempt from the license requirement shall be promulgated through the issuance of a Royal Decree.

For the purposes of compilation of statistics, the Commission may prescribe that energy-related businesses exempt from the license requirement under paragraph three are those that must be reported to the Office.

Section 48. Where any building construction or factory establishment for the purpose of energy industry operation shall have to comply with the law on factories, the law on building construction control, the law on town planning or the law on energy development and promotion, the granting of permission under the laws on those respective matters shall be under the authority and duties of the Commission under this Act, and the Commission must solicit for comments from the authoritative agencies under those respective laws, and such an agency must notify the Commission of its comments and the amount of fee chargeable under such relevant law.

The Office shall deliver the fees collected by the Commission under paragraph one to the respective authoritative agencies under the respective laws for further action.

Section 49. The Commission shall have the power to order a business operator who is considered to be an energy industry operator who must obtain a license but has not obtained one to stop or suspend the energy industry operation or to disconnect from the energy network system.

When the Commission has issued the order pursuant to paragraph one but the business operator fails to carry out the order, the Commission shall have the authority to order the competent officials to take any necessary action to achieve the objective of the order under paragraph one.

In such a case, the business operator shall have to pay to the Office for the expenses actually incurred.

Section 50. The qualifications of a license applicant, rules, procedures and conditions of the application for a license, and license issuance, including the license fees and the fees for the energy industry operation, shall be in line with the regulations announced by the Commission, which shall correspond with the plans under Section 9 (3) or with the energy policy as approved by the cabinet.

Section 51. The rules, procedures and conditions of license issuance stipulated by the Commission under Section 50 must take into account the differences in the categories, sizes and natures of energy industry, and shall not pose undue burden on the energy industry operation of the licensee, and shall not result in competition restriction, and must ensure equal treatment among licensees operating energy business of the same category, size and nature.

The rules, procedures and conditions under paragraph one shall include any one or more of the following matters:

- (1) the location and surrounding conditions of an energy business facility;
- (2) technical, engineering and safety standards;
- (3) standards and quality of the service provision;
- (4) tariffs;
- (5) efficiency of the energy and resource utilization;

- (6) efficiency of the energy business operation and service provision;
- (7) categories and types of fuel, including requirements for the use of renewable energy;
- (8) processes and technologies used in the energy industry operation;
- (9) protection against and solution to energy shortages;
- (10) competition in the energy industry operation and prevention of abusive use of monopoly power;
- (11) shareholding structure and relationship with other energy-related business operators;
- (12) the opinion-hearing process and public relations to raise understanding of the general public and stakeholders;
- (13) environmental standards;
- (14) measures to alleviate community and environmental impacts in the vicinity of the energy business facility;
- (15) the comprehensiveness and completeness of the report made to the Commission.

Section 52. After the license applicant has paid the license fee and the fee for the energy industry operation to the Office, the Commission shall issue a license to the license applicant.

After the Commission has issued the license, the name of the licensee shall be disclosed on the website of the Office.

Section 53. In the event that a licensee wishes to commence operation of any part of his electricity industry, the licensee shall inform the Office prior to the commencement date of the operation according to the criteria, procedures and conditions set forth by the Commission.

In case a trial run of the machinery or equipment is scheduled prior to the commencement of the electricity industry operation under paragraph one, the licensee shall inform the power system operator of the date, time and duration of the trial run. In this connection, the power system operator will, without delay, notify the licensee of the exact date and time for the trial run.

Section 54. The duration of the energy industry operation shall be as specified in the license.

In requesting renewal of a license, the licensee shall submit an application before the license expires. After submission of the application, the applicant will still be regarded as a licensee until a renewal refusal order is received.

Request for renewal of license and granting of permission, and rate of fee for renewal of license shall be in accordance with the rules, procedures and conditions prescribed by the

Commission, provided that those rules, conditions and procedures must be the same as those under Sections 50 and 51.

Section 55. The licensee shall be prohibited from transferring the rights, in whole or in part, granted by the license to another person, unless approval is granted by the Commission, according to the rules, procedures and conditions specified by the Commission.

Section 56. If a licensee disqualifies or fails to comply with the regulations stipulated by the Commission under Section 50, the Commission may order the suspension or cancellation of the license, according to the rules, procedures and conditions stipulated by the Commission.

Section 57. In the event that occasional power shortages may occur or that it is essential to reserve fuel for power generation for the security or economic benefits of the country, the Commission shall, with the approval of the Minister, have the authority to instruct licensees to increase or reduce their power production or distribution.

In the case of occasional shortages of natural gas and for the sake of the national security, the Commission shall have the authority to instruct the licensees who are natural gas suppliers and wholesalers to negotiate with natural gas sellers in order to determine the methods to increase the natural gas production and supply volume and to report the outcome of the negotiations to the Commission.

Section 58. Licensees are prohibited from halting or stopping their energy services, unless they have taken actions in conformity with the rules, procedures and conditions prescribed by the Commission.

Section 59. Any licensee who wishes to discontinue the energy industry operation shall inform the Office in writing in advance in accordance with the rules, procedures, condition and duration prescribed by the Commission.

If the discontinuance of energy industry operation under category, size and location prescribed by the Commission will affect the security of the energy system and there has been no other licensee to take over the operation, the Commission shall have the power to order a state agency or private party with experience and expertise in energy industry operation to take over the operation until another licensee does so or until the Commission considers it appropriate to order termination of such energy industry operation.

The state agency or private party taking over the operation shall be regarded as a licensee who has rights and duties under this Act.

The state agency or private party taking over operation on behalf of the licensee shall be entitled to enter and use the energy industry operation facility of the licensee who has ceased operating energy industry under paragraph one as necessary, so as to continue the provision of energy service. The state agency or private party shall exercise care to preserve the properties of the licensee as an energy industry operator or person in such profession would do. If damage occurs to the licensee, the licensee shall be entitled to claim compensation for such damage from the Office in accordance with the rules, procedures and conditions prescribed by the Commission.

The apportionment of the revenue and expenses derived during the interim operation, between the replacing operator and the former licensee shall be in accordance with the rules, procedures and conditions prescribed by the Commission.

Section 60. The Commission shall have the authority to establish regulations to prohibit any acts that are a monopoly, or that reduce competition or limit competition in the energy service provision.

Section 61. In the event that a licensee fails to comply with the rules under Section 60, the Commission shall have the authority to:

- (1) instruct the licensee to stop or improve the practice that is a monopoly, reduces or limits competition;
- (2) change the conditions of the license.

Section 62. In the case where the Commission views that the manner of service provision of a licensee may cause damage to the systems, machinery and equipment of other service users or energy industry operators, the Commission shall have the authority to order the licensee to improve the manner of his service provision within the period of time determined by the Commission.

Section 63. A licensee shall prepare and submit to the Commission the information pertaining to his energy industry operation, which may include the account illustrating the financial status and financial statements, according to the rules, procedures and conditions specified by the Commission.

A licensee operating a power network system with the power system operator shall distinctly separate the accounts and balance sheets of the operation of the power network system and the power system operator from those of businesses of other categories.

Part 2

Tariffs for the Energy Industry Operation

Section 64. The Minister shall, with the approval of the NEPC, establish the policy and guideline for fixing of tariffs for energy industry operation.

Section 65. Subject to the policy and guideline approved by the NEPC, the Commission shall prescribe the rules for fixing of tariffs of the licensees of each type under the following guideline:

- (1) They should reflect the actual cost by taking into account the reasonable return of investment of efficient energy industry operation.
- (2) They should be at the level to ensure efficient and adequate energy procurement to meet the demand for energy within the country.
- (3) They should encourage the improvement of efficiency of energy industry operation.
- (4) Fairness shall be ensured for both energy consumers and licensees.

- (5) Consideration should be given on the assistance to the underprivileged power consumers or the decentralization of development to provincial areas.
- (6) The calculation of the tariffs must be clear and transparent, and the tariffs must be made public.
- (7) There shall be no unjust discrimination against energy consumers or those who wish to use energy.

Section 66. The Commission shall regulate the licensees' tariffs to ensure that they are in line with the policy and guideline approved under Section 64 and rules under Section 65.

In case the tariffs are applied in general, the Commission shall disclose the formula or the methodology used in the tariff calculation, and the information about the variables used in the tariff calculation, except for the case the Commissions deems that such variables are commercially confidential information of the licensees.

Section 67. In regulating the tariffs under Section 66, paragraph one, a licensee shall submit the tariffs for consideration for approval by the Commission. The consideration process must be transparent, and must involve hearing of opinions of interested persons.

Section 68. In the case where the Commission views that the tariffs become inappropriate due to the changing economic, social, investment or the technological conditions, the Commission shall have the authority to:

- (1) adjust the tariffs; or
- (2) order the licensee to adjust the tariffs and propose them to the Commission for approval, and the Commission must complete its consideration within 30 days from the date of receipt of complete documents and evidence.

Adjustment of tariffs under paragraph one shall be made within the scope of policy and guideline approved under Section 64.

Section 69. Where the licensee considers that the tariffs adjusted or approved by the Commission are not appropriate due to the changing of economic, social, investment, technological condition or other causes, the licensee may submit an application for adjustment of tariffs, to the Commission for approval, and the Commission must complete its consideration within 30 days from the date of receipt of complete documents and evidences.

Adjustment of tariffs under paragraph one shall be made within the scope of policy and guideline approved under Section 64.

Section 70. Licensees shall publicize and announce the tariffs as approved by the Commission, according to the rules, procedures and conditions specified by the Commission.

Section 71. Licensees are prohibited from collecting tariffs at the rates higher than those approved by the Commission.

Part 3

Establishment of Standard and Safety of Energy Industry Operation

Section 72. Energy industry operation must be in line with the engineering standards and safe in accordance with the regulations prescribed by the Commission. The prescribed regulations:

- (1) shall not create an undue burden on the licensees;
- (2) shall not be so rigid that they would limit or hinder competition;
- (3) shall not create benefits exclusively for any particular licensee; and
- (4) shall be established with transparency.

In the event that the energy industry operation of a licensee fails to comply with the regulations under paragraph one, the Commission shall have the authority to order the licensee to improve or to take corrective measures.

Section 73. Standards of the equipment to be connected to an energy network system of a licensee having an energy network system, including the methods of the inspection and the inspection outcome certification, shall be in conformity with the regulations prescribed by the Commission.

The regulations under paragraph one may require that certain equipment to be connected to an energy network system be inspected and certified prior to their utilization in the energy industry operation.

In preparation of the regulations under paragraph one, a licensee having an energy network system shall prepare the details for consideration of the Commission.

Section 74. A licensee shall undertake the maintenance, repair and improvement of the energy network system, equipment and other devices used for the energy industry operation to ensure that their operating efficiency and standards comply with the regulations issued under Section 72, paragraph one. If there is any damage or breakdown, repair must be expeditiously taken to restore the operation.

Section 75. In establishing the standards under Section 72, paragraph one and Section 73, paragraph one, the Commission may refer to the standards established by other agencies having the authority and duties under the law governing the relevant matter.

Section 76. Any person wishing to become an inspection and standard certification organization for equipment connected to an energy network system must obtain a license as an inspection and standard certification organization from the Commission.

The qualifications of the applicant for a license for inspection and standard certification organization, submission of application for a license, issuance of license, renewal of license, term of license, fee for issuance of license and renewal of license, as well as fee for inspection and certification shall be in accordance with the rules, procedures and conditions prescribed by the Commission.

Section 77. The Commission shall have the authority to revoke the license for inspection and standard certification organization for equipment used for connection with an energy network system in the following cases:

- (1) lack of qualifications provided in a notification under Section 76, paragraph two;
- (2) dishonest inspection, inspection outcome report or inspection outcome certification;
- (3) inspection, inspection outcome report or inspection outcome certification in delay without appropriate reason, causing serious damage to the person requesting inspection;
- (4) having inspectors whose qualifications do not meet the standard, or having inspectors less than the required number under the notification under Section 76, paragraph two.

Section 78. Revocation of a license for an inspection and standard certification organization under Section 77 does not affect standard certifications conducted by the inspection and standard certification organization prior to the revocation of the license, unless the certification does not meet the standard prescribed by the Commission, in which case the Commission may consider ordering a revocation of such standard certification.

If any person suffers damage from standard certification that did not meet the standard and has been revoked under paragraph one, the inspection and standard certification organization whose license has been revoked shall pay damages incurred.

Part 4

The Energy Network Systems and the Energy Network System Operators

Section 79. A licensee who has an energy network system shall carry out the operation in line with what is stipulated in the energy network system expansion plan.

An energy network system licensee who is a state agency stipulated by the Commission shall develop his energy network system expansion plan for submission to the Minister for seeking approval by the cabinet.

In considering the energy network system expansion plan under paragraph two, the Commission shall provide its opinion in support of the consideration. In this connection, if such plan effects the material interest of the public, the Commission may conduct an opinion-hearing process under Section 26.

A licensee having an energy network system who is not a state agency under paragraph two shall develop his energy network system expansion plan for submission to the Commission for approval according to the scope and rules prescribed by the Commission.

Section 80. A licensee who has an energy network system shall operate his energy business fairly and may not unjustly discriminate.

Section 81. A licensee who has an energy network system must allow other licensees or energy industry operators to utilize or connect his energy network system in accordance with

the terms stipulated and announced by the licensee who has an energy network system.

The terms under paragraph one must consist of terms concerning connection of energy network systems, terms concerning use of energy network system services, and terms concerning operation of energy network system, and the terms must be based on the following principles:

- (1) They must not adversely affect the security, safety and quality of the energy system.
- (2) They must not disadvantage energy consumers and the public.
- (3) They must not discriminate or hinder other licensees or energy industry operators.
- (4) The technical specifications at the end-use points or at the point of connection to the energy network system must be clear, technically feasible and must not impose an undue burden on the person who requests to utilize or connect to the energy network system.
- (5) Duties and responsibilities of both the person who requests to utilize or connect to the energy network system and the person who allows the utilization of or connection to the system must be clearly specified.
- (6) Any other characteristic as specified by the Commission.

The terms under paragraphs one and two must not cause the licensee who has an energy network system to lose benefit or to be disadvantageous in competition with other licensees or energy industry operators.

Section 82. Where the Commission considers that the terms concerning interconnection of energy network systems, terms concerning use of energy network system services and terms concerning energy network system operation do not conform to the principles under Section 81, the Commission shall have the power to order the licensee issuing such terms to revise or improve the terms in line with the principles under Section 81.

Section 83. Where the licensee or energy industry operator wishing to utilize or connect the energy network system considers that the terms concerning interconnection of energy network systems, terms concerning use of energy network system services and terms concerning energy network system operation do not conform to the principles under Section 81, the licensee or energy industry operator may file a request to the Commission for its consideration.

If the Commission considers that the said terms do not conform to the principles under Section 81, the Commission shall have the power to order the licensee issuing the terms to revise or improve the terms in line with the principles under Section 81.

Section 84. Where the licensee who has an energy network system refuses the utilization or interconnection of energy network systems, the person who has been refused has the right to file a request to the Commission for decision.

When the Commission has made a decision on the request under paragraph one, the concerned parties shall act in compliance with the decision.

Section 85. A licensee who has an energy network system shall provide the person who requests to utilize or connect to his energy network system with accurate information necessary for the utilization or connection to the system. He shall not take any action that prevents the normal utilization or connection to the energy network system of the licensee or other energy industry operator.

Section 86. A licensee who has an energy network system must disclose the contracts, agreements, conditions and tariffs for the utilization of or connection to his energy network system, according to the rules, procedures and conditions established by the Commission.

Section 87. A licensee who has an energy network system operator shall be responsible for the control, management and overseeing of the energy systems to ensure the system balance, security, stability, reliability and efficiency and shall have the authority and duties to execute other tasks as specified by the Commission in the conditions of the license issuance.

A licensee who has a power system operator shall order the licensee operating electricity business to generate electricity fairly without unjust discrimination.

Section 88. If there is any person complaining to the Commission that a licensee with a power system operator violates Section 87, paragraph two, the Commission shall make a decision on the complaint within 30 days from the date of receipt of the written complaint.

If the Commission considers that the licensee with a power system operator violates Section 87, paragraph two, causing damage to the complainant, the Commission shall initially determine the compensation for such damage.

DIVISION 4 ENERGY CONSUMER PROTECTION

Part 1 Service Standards and Extensive Service

Section 89. The licensees shall provide energy services pursuant to the standards established by the Commission. The standards shall include the technical and engineering standards as well as the service quality standards.

The licensees who fail to meet the standards specified under paragraph one shall be liable to pay compensation to energy consumers, according to the regulations established by the Commission.

The licensees shall submit a report on the service quality to the Commission, according to the regulations set forth by the Commission.

Section 90. The Commission may assign a licensee to provide energy services in a particular locality where no energy service exists or where the services are not extensive or are inadequate to meet the demand of energy consumers in that locality.

The assignment under paragraph one shall be in line with the policy set forth by the Minister under Section 9 (7).

Section 91. The Commission shall have the authority to issue an announcement prescribing standard form of contract concerning provision of energy services, and may prescribe exemption for any contract from being in the standard form of contract.

The standard form of contract concerning provision of energy services shall at least

- (1) contain clear provisions on duties and responsibilities of the licensee and the energy consumer.
- (2) contain no provisions that restrict the energy consumer's utilization, without appropriate reasons.
- (3) contain no provisions that unjustly discriminate or hinder the energy consumer.

Section 92. The licensee must publicize the form of contract of his energy service provision to energy consumers in accordance with the rules set forth by the Commission, and the contracts must be noticeably displayed in his workplace to allow examination by the general public.

Part 2

The Power Development Fund

Section 93. A fund shall be established in the Office, called the "Power Development Fund" with the objectives to provide financial support for provision of power services in extensive localities to distribute development to localities, develop local communities affected by operation of a power plant, promote use of renewal energy and technology for power operation that has less impact on the environment, taking into consideration the equality of natural resources and promote fairness to power consumers.

Section 94. The Fund shall consist of:

- (1) the contributions delivered under Section 96;
- (2) the fines collected from licensees for the electricity business operation pursuant to Section 128 and Section 140;
- (3) moneys or assets donated;
- (4) any interest or benefit derived from moneys or assets of the Fund.

Moneys and assets belonging to the Fund need not be remitted to the treasury as state revenue under the law on treasury balance and budgetary procedure law.

Section 95. The Office shall receive and pay money, keep and manage the money of the Fund separately from the budget of the Office.

Receipt and spending of money, keeping and management of the money of the Fund shall be made in accordance with the regulations stipulated by the Commission.

Section 96. A licensee operating electricity business shall remit money into the Fund in accordance with the rules prescribed by the Commission under the scope of policy of the NEPC under Section 11 (10), provided that the money remitted into the Fund for expenditure under Section 97 (1) shall be deducted from the tariffs.

The establishment of the rules, procedures and conditions of remittance of money into the Fund under paragraph one shall include the distinct account separation according to the activities provided in Section 97 (1), (2), (3), (4) and (5) and shall take into consideration the impacts on power consumers who have to shoulder the burden resulting from the electricity business licensees' remittance of money into the Fund.

Section 97. The Fund shall be used for the following activities:

- (1) to compensate and subsidize for electricity business licensees who have provided services for underprivileged power consumers or to enhance extensive electrification or to support the policy on the development decentralization to provincial areas;
- (2) to compensate the power consumers who have to pay more expensive electricity rate due to the violation of a licensee who has a power system operator of Section 87 paragraph two;
- (3) to develop or restore the localities affected by the operation of a power plant;
- (4) to promote the use of renewable energy and technology used in electricity business operation that has less impact on the environment;
- (5) To encourage society and public to have knowledge, awareness and participation in respect of electricity;
- (6) to be spent as expenses for managing the Fund.

The spending of the money of the Fund under (1), (2), (3), (4) and (5) shall be made in accordance with the regulations prescribed by the Commission under the scope of policy of the NEPC under Section 11 (10), and there must be distinct separation of accounts according to the activities for which expenses were spent.

Part 3

Regional Energy Consumer Committee

Section 98. For purpose of protecting energy consumers, the Commission shall appoint the Regional Energy Consumer Committee, comprising one Chairman and not exceeding 10 other members, representing energy consumers in each region.

The Commission shall determine the qualifications, terms of office, vacation of office, working procedures and remuneration and other expenses for performance of the Regional Energy Consumer Committee, and the remuneration and other expenses shall be considered as part of the expenditure for operation of the Office.

The division of regional areas under paragraph one shall be determined by the Commission.

Section 99. The Regional Energy Consumer Committee shall have the following authority and duties:

- (1) deal with complaints from energy consumers and give advice to energy consumers as stipulated by the Commission;
- (2) give advice to the Commission on energy consumer protection;
- (3) propose corrective and improvement measures regarding energy service provision;
- (4) co-ordinate with energy industry operators to acquire the information related to the complaints of energy consumers with a view to improving service quality and finding solutions to the complaints; and
- (5) perform any other task as may be assigned by the Commission.

Section 100. In the event that an energy consumer is adversely affected by the service provision of a licensee, the energy consumer shall have the right to present a written complaint to the Regional Energy Consumer Committee.

The written complaint must clearly indicate the facts and be accompanied by documents and evidence related to the case.

The rules and procedures for consideration of complaints shall be in accordance with the regulations prescribed by the Commission. In this connection, the period for completion of consideration of a complaint shall be fixed at 60 days from the date of receipt of the complaint, and opportunity must be given to the parties to present facts and their evidences.

Section 101. If the energy consumer does not agree with the decision of the Regional Energy Consumer Committee, he shall be entitled to appeal to the Commission in accordance with the rules, procedures and conditions prescribed by the Commission.

The decision by the Commission on the appeal shall be final.

Section 102. In the case where an energy consumer has found that a licensee collects tariffs at a higher rate than that approved by the Commission, or that the licensee unfairly provides services, the energy consumer shall have the right to request information about his service utilization from the licensee. The licensee must then provide the information requested to the energy consumer within thirty (30) days from the date on which the written request is received.

If the energy consumer wishes to receive the information under paragraph one in the form of document certified as correct, the licensee shall do so for the energy consumer, and may impose a charge to the energy consumer, but the charge must not be higher than the actual cost, in accordance with the rules, procedures and conditions prescribed by the Commission.

Section 103. In case there are reasonable grounds for suspicion that a licensee improperly

or unfairly collects tariffs, the energy consumer shall have the right to submit a written complaint to the Regional Energy Consumer Committee, and the provisions of Section 100 shall apply mutatis mutandis.

DIVISION 5 UTILIZATION OF IMMOVABLE PROPERTY

Section 104. When it is necessary for a licensee that is a government agency to use immovable property for the purpose of constructing an energy network system or other structures necessary and related to such an activity, including water resources for power generation and constructing a barrage, a diversion dam, a storage dam, a reservoir or any other structure that is a component of the dam or reservoir for hydropower generation, or for hydropower development, or for the benefits related to the construction of a hydropower plant, including the switchyard and any other structure that is a component of the hydropower plant, unless otherwise agreed on the transfer, the expropriation of property shall be made by the Office and the ownership of the expropriated immovable property shall belong to the state pursuant to the law on the expropriation of immovable property.

The Office shall have the duty to take care of, maintain, use and acquire interest from the immovable property vested into the state under paragraph one in accordance with the rules, procedures and conditions prescribed by the Commission.

Section 105. For the purpose of exploration or survey of a location for the construction of an energy network system, a licensee, with approval of the Commission, shall have the authority to temporarily make use or take possession of the immovable property of any person, so long as it is not his dwelling place. In this connection, the licensee who is a state agency or, in case of other licensees, the Office shall make an announcement on the demarcation of areas to be surveyed by posting up the written notice for not less than 7 days at the District Office, or the Sub-district Office, the Sheriff Office and the Office of the Village Headman overseeing the area where the immovable property is situated. Besides, the licensee shall make an announcement in at least one newspaper which is widely distributed in the locality for no less than 3 days. The announcement shall include the information about the schedule, date, time and duration of the act to be performed, or in pursuance of the rules set forth by the Commission.

Posting of the announcement and announcement in the newspaper shall be made not less than 30 days prior to the use or possession of the immovable property.

After entry onto the immovable property of any person, if any damage or depreciation of economic use of the immovable property or property occurs, the licensee shall notify, in writing, the owner or occupying person or right holder of the immovable property of the amount of compensation for the damage and shall pay compensation for the damage to such person according to the rules, procedures and conditions specified by the Commission. In this regard, the amount of such compensation shall be calculated fairly from the damage, including loss of benefits that should have been gained from the use of the concerned property.

The owner or occupying person of the immovable property or asset or other right holder may lodge an appeal against the amount of compensation to the Commission within 60 days as

from the date of receipt of the notification of the amount of compensation.

The Commission shall complete decision on the appeal within sixty (60) days as from the date of receipt of the appeal.

The decision of the Commission shall be treated as final.

Section 106. When the licensee has identified the route or site for the energy network system construction, he shall prepare a drawing illustrating detailed characteristics of the directions and zone of the energy network system installation for submission to the Commission for approval. The Commission shall complete consideration within 30 days.

After the Commission grants approval for the drawing under paragraph one, the Office shall make an announcement on the energy network system zone by posting it at the District Office, or the Sub-district Office, the Sheriff Office and the Office of the Village Headman where the energy network system zone is located, or take any other step as deemed appropriate by the Commission. In this regard, the licensee shall demarcate the boundaries of the energy network area and issue a written notification to the owner or occupying person or right holder of the immovable property that is located in the boundaries or site of the concerned energy network system, pursuant to the rules, procedures and conditions set forth by the Commission.

The owner or occupying person or right holder of the immovable property may lodge an appeal giving reasons rendering such an act inappropriate, to the Commission within thirty (30) days as from the receipt date of the written notification from the licensee.

The Commission shall complete decision on the appeal within sixty (60) days as from the receipt date of the appeal.

The Commission's decision on the appeal shall be treated as final.

Section 107. When the announcement on the energy network system zone under Section 106 has been made, the licensee shall have the authority to act as follows:

- (1) To construct the energy network system under, above, along or across the energy network system of another licensee, and the latter shall not be able to refuse the implementation unless it can be proved that the implementation will create technical problems that may disturb his own energy network system installation. In this connection, the other licensee may impose a utilization charge as appropriate and fair.
- (2) To construct the energy network system under, above, along or across a state property land. The licensee shall abide by the rules and regulations issued under the provisions of relevant laws.
- (3) To construct the energy network system under, above, along or across the land belonging to any person and to erect or install poles or other equipment in or on the ground of any person where no structures are situated.
- (4) To demolish buildings or structures of other persons, or to destroy other things that were constructed or made, or to destroy or cut trunks, branches or roots of trees of

other persons, or vegetation in the energy network system zone.

Section 108. Before the implementation under Section 107, the licensee shall take the following actions:

- (1) Inform, in writing, other licensee under Section 107 (1), the owner or occupying person or right holder under Section 107 (2), (3) or (4). The other licensee, owner or occupying person or right holder may lodge a petition giving reasons rendering such an act inappropriate, to the Commission for consideration within thirty (30) days as from the receipt date of the written notice. The decision of the Commission shall be treated as final.
- (2) Pay for the utilization charge or take any other action under Section 107 (1), or pay compensation to the owner or occupying person or right holder under Section 107 (2), (3) or (4) according to the rules, procedures and conditions announced by the Commission, as well as inform, in writing, the amount of utilization charge or compensation to those persons. For the land which is state property, in prescribing the rules, procedures and conditions therefor, the Commission shall coordinate with the agencies taking care of such state property.
- (3) In the event that the other licensee, owner or occupying person or right holder does not agree to the amount of utilization charge or compensation under (2), the licensee shall deposit the payment for utilization charge or compensation according to the rules, procedures and conditions stipulated by the Commission, and the licensee shall have the right to take action under Section 107, which shall not unduly cause troubles or disturbances or shall not unduly create damaging effect on the environment and depreciate the economic use of the assets.
- (4) In the event that the other licensee or the owner or occupying person or right holder is not satisfied with the amount of utilization charge or compensation, he shall have the right to lodge an appeal to the Commission. The decision by the Commission on the appeal shall be final. The rules, procedures and conditions of appeal and consideration of appeal shall be in accordance with the regulations prescribed by the Commission.

Section 109. For the purpose of repairing and maintenance of an energy network system, a licensee shall have the authority to temporarily make use or take possession of the immovable property of any person, so long as it is not his dwelling place, subject to the following conditions:

- (1) Such use or possession is necessary for the inspection or repairing and maintenance of the energy network system or for the prevention of danger or damage which may be caused to the energy network system.
- (2) The licensee has already notified in writing the owner or occupying person or right holder of the immovable property no less than three (3) days in advance.

If any damage affecting the owner or occupying person or right holder of the immovable property occurs resulting from the steps taken under paragraph one, the licensee shall be liable to pay compensation of the damage, according to the rules, procedures and conditions

specified by the Commission. If the amount of compensation cannot be settled, an appeal may be lodged to the Commission. The decision by the Commission on the appeal shall be final.

The rules, procedures and conditions for appeal and consideration of appeal shall be in accordance with the regulations prescribed by the Commission.

Section 110. In the case where the equipment of an energy consumer has caused disturbances to the extent that damage may be caused to the energy business operation facility, the licensee shall inform that energy consumer, by a written notice, to change or correct and improve that equipment within a reasonable period of time.

In the event that the energy consumer declines to take action according to the notice and that the use of that equipment still causes disturbances, the licensee can temporarily suspend the service provision to that energy consumer until the latter has taken action pursuant to the notice. In this connection, the licensee shall immediately report the cause of the service suspension to the Commission. When the Commission has been informed of the service suspension, an order shall be issued to confirm or alter that service suspension. The licensee shall comply with the order within thirty (30) days as from the date of issuance of the Commission's order.

In the case of emergency, the licensee can immediately suspend the service provision without written notice requiring the energy consumer to change or correct and improve the equipment causing disturbance, but shall notify the energy consumer and the Commission without delay. Upon being notified, the Commission shall take steps under paragraph two.

Section 111. In the case where the energy network system under Section 107 or the equipment used in the operation of the energy network system has severely caused a disturbance or an obstacle to the utilization of the immovable property of its owner or occupying person or right holder due to the change in purpose or method of utilizing the immovable property, and when the owner or occupying person or right holder requests, the licensee shall take action to get rid of that disturbance or obstacle unless that act will severely affect the operation of the licensee or is extremely difficult in terms of engineering aspects. The licensee and the owner or occupying person or right holder shall make a settlement for the implementation to get rid of that disturbance or obstacle, specifying the implementation time frame, the party to be responsible for the expense incurred and the method of payment for the expense.

In the event that the settlement cannot be reached or that settlement has been reached but it cannot be implemented, the licensee or the owner or occupying person or right holder may file a petition to the Commission to make a decision.

When the petition is received by the Commission, a copy of the petition shall be sent to the licensee and the owner or occupying person or right holder, as the case may be, for acknowledgment within thirty (30) days as from the receipt date of the petition. The party receiving the copy of the petition may express his comments in writing to the Commission within fifteen (15) days as from the receipt date of the copy of the petition. When the said period is over, the Commission shall expeditiously make a decision and shall, without delay, notify the decision to the licensee and the owner or occupying person or right holder. The decision must mention the implementation to get rid of that disturbance or obstacle, the

implementation time frame, the party to be responsible for the expense incurred and the method of payment for the expense.

When the Commission has made a decision, the licensee or the interested parties, shall have the right to appeal against the decision to the Commission within sixty (60) days as from the date of acknowledgment of the decision.

The Commission's decision on the appeal shall be treated as final.

The rules, procedures and conditions for appeal and consideration of appeal shall be in accordance with the regulations prescribed by the Commission.

Section 112. In the energy network system zone as announced under Section 106, no person shall be allowed to construct a building or any structure, to grow any tree or plant, to install anything, to drill or dig a hole, to pile up soil, to discard things or to do anything that may cause danger or may be an obstacle to the energy network system, unless written permission is granted by a competent official, in accordance with the rules, procedures and conditions prescribed by the Commission.

In granting permission under paragraph one, the competent official shall listen to the opinion of the licensee, and if it is considered that such acts will not affect the energy network system, human beings, animals, vegetation, property or the environment, the competent official shall grant permission according to the request, and may impose any conditions thereon.

In case of an act under paragraph one without permission, or where permission is granted but there is a violation of the permission or conditions imposed on the permission, the competent official shall have the power to use administrative measures under the law on administrative official procedure.

Section 113. For the sake of safety, a licensee shall have the authority to demolish or cut trunks, branches, roots of trees or other things that are in the vicinity of, or conceal, cover, spread over or overlies the energy network system zone. In so doing, a written notification must be given to the owners or occupying persons of the trees or those other things in advance within a reasonable period of time. In case the owners or occupying persons cannot be contacted, the licensee shall have the authority to take action as necessary and shall report the same to the Commission.

In doing the act under paragraph one, if the trees or other things exist before the construction of the energy network system, the licensee shall pay compensation to the owner or person occupying such trees or things. If the amount of compensation cannot be agreed on, an appeal shall be lodged to the Commission, in accordance with the rules, procedures and conditions prescribed by the Commission.

The Commission's decision on the appeal shall be treated as final.

Section 114. In case of necessity and urgency, a licensee shall have the authority to immediately enter the land or place that is not a dwelling place of any person at any time in order to inspect, repair or fix up the energy network system. If the owner or occupying

person or right holder is present at the place, he shall be notified prior to such entry.

When the act under paragraph one is executed, the licensee shall report the matter, without delay, to the Commission.

Section 115. In taking actions under Section 113 or Section 114, the licensee shall exercise care to avoid damage to other things; however, if any damage occurs, the licensee shall be liable for the damage.

Section 116. When a request of a licensee is received, and if the Commission views that it is necessary to protect the energy network system, a protection zone of the energy network system may be demarcated together with the establishment of prohibitions against certain actions within the said zone, according to the rules, procedures and conditions set forth by the Commission.

Any construction or action done within the energy network system protection zone must be permitted by the Commission. In granting permission, the Commission shall take into account the protection of related energy network systems.

Where the construction or any act permitted under paragraph two causes damage, the person responsible for the construction or action shall be liable to pay damages arising therefrom.

Section 117. No person shall damage, destroy, make it lessen in value, useless or do any act that may endanger an energy industry operation facility or energy network system operator.

For the purposes of this Section, the Commission may prescribe protective measures for the things under paragraph one as necessary.

Section 118. In the area of energy network system and the protection zone of the energy network system in any river, canal, sea or waterway, no person shall be allowed to drop or drag the anchors, or drag fishing-nets or any animal-catching tools.

When a ship sails across the energy network system area, if the anchor is not weighed until it can be seen well above the water, the act shall be regarded as anchor dragging.

DIVISION 6 DELIBERATION OF DISPUTES AND LODGING OF APPEALS

Section 119. Unless the contract otherwise provides for resolution of disputes or appeal, resolution of disputes or appeal shall be made in accordance with the provisions of this Division.

Section 120. In the event that a dispute occurs between an energy consumer and a licensee or between licensees, the dispute shall be decided or conflict be settled in the following manners:

- (1) For a dispute between an energy consumer and a licensee, the dispute shall be resolved in accordance with Section 100.

- (2) For a dispute between a licensee and another licensee, the dispute shall be resolved in accordance with the regulations prescribed by the Commission.

Section 121. In the event that an energy consumer and a licensee or an interested person is dissatisfied with an order, regulation, rule, notification or any stipulation of the Commission, the person shall have the right to lodge an appeal with the Commission.

The appeal under paragraph one shall be submitted to the Commission within thirty (30) days as from the date of receipt of the order from the Commission or from the date of issuance by the Commission of the regulation, rule, notification or stipulation.

The rules, procedures and conditions for the appeal submission and the appeal consideration procedures shall be in accordance with the stipulations set forth by the Commission.

The appeal under paragraph two shall not be regarded as a stay of exemption of the order issued by the Commission unless the Commission has given an interim instruction to be otherwise before a decision is made on the appeal.

The decision of the Commission on the appeal shall be treated as final.

DIVISION 7 COMPETENT OFFICIALS

Section 122. For the execution of this Act, the competent officials shall have the authority and duties as follows:

- (1) to enter an energy business building or facility of a licensee between sunrise and sunset, or during the working hours of that place, with the objective of inspecting the business, books, accounts, documents or evidence, or relevant information, including any activities of the licensee that may violate or fail to comply with the provisions of this Act or contravene the conditions specified in the license;
- (2) to issue a written notice to summon a person to furnish a statement or to instruct the person to submit any document or material for consideration;
- (3) to inspect and compile facts, then report to the Commission in case the licensee has committed a wrongdoing or has caused damage arising from violation or non-compliance with this Act or the conditions specified in the license;
- (4) to temporarily make use or take possession of the immovable property of any person, so long as it is not his dwelling place, for the purpose of surveying or exploring for a location for an energy network system construction, according to the provision of Section 105, by approval of the Commission.
- (5) enter a land or property of other person to take action as provided in Sections 107, 109, 113, 114 and 116 with the approval of the Commission.

Having entered the place and commenced the inspection under (1), if the inspection is not completed, the competent officials can continue doing their duties after sunset or after the

working hours of that place as necessary and appropriate.

In performing duties under (1), the competent official shall not do any act that is a threat or search under the Criminal Procedure Code.

Section 123. Concerned persons shall facilitate the duty execution of the competent officials as appropriate.

Section 124. In executing the duties, a competent official shall present his I.D. Card to the persons concerned.

The I.D. Card of the competent official shall be in accordance with the form prescribed by the Commission.

Section 125. In executing the duties under this Act, the Secretary-General and the staff members of the Office and the competent officials shall be considered officials under the Criminal Code.

Section 126. In case of an emergency or necessity to maintain the national security or the economic stability, or to protect the public interest, or to maintain peacefulness of the people, the Commission may assign or order a state agency that has experience and expertise in energy business operation or the competent officials to occupy or utilize the equipment and devices of a licensee to operate the business, or order the licensee or its employees to take any actions until the emergency or necessity dissolves.

In carrying out the implementation under paragraph one, the state agency or competent officials shall exercise care to preserve the properties of the licensee as an energy industry operator or a person in such profession would do.

In carrying out the implementation under paragraph one, if there is damage to the licensee, the licensee shall be entitled to claim compensation for such damage from the Office in accordance with the rules, procedures and conditions prescribed by the Commission.

DIVISION 8 ADMINISTRATIVE ENFORCEMENT

Section 127. If it appears to the Commission that any violation of or non-compliance with Section 53, Section 55, Section 58, Section 63, Section 70, Section 71, Section 73, Section 74, Section 79, Section 80, Section 85, Section 86, Section 87, Section 89, Section 92, Section 96 paragraph one, or Section 102, the Commission shall have the authority to order the licensee to act or omit to act, make corrections or improvement, or take proper or appropriate steps within the period specified.

Section 128. Where the licensee violates or fails to comply with the order of the Commission under Sections 56, 57, 61, 62, 68 (2), 72 paragraph two, 82, 83 paragraph two, 84 paragraph two or 127, and the period for appeal under Section 121 has expired, or where there is an appeal under Section 121, but the Commission adopts a resolution disagreeing with the appeal and has issued a written warning, but there is no compliance with such order, the Commission shall impose an administrative fine, which must not be more than 500,000

baht per day. In this connection, the seriousness of the violation of or non-compliance with the order shall be taken into account.

If there is no payment of the administrative fine, administrative enforcement shall be conducted in accordance with Division 8 Administrative Enforcement, Chapter 2 Administrative Orders, of the Administrative Procedure Act B.E. 2539.

In the event that the licensee still ignores to act properly or violates the license suspension order, or in the event that serious damage affecting the public interest arises, the Commission shall have the authority to suspend or revoke his license, as the case may be.

DIVISION 9 PUNISHMENT

Section 129. Whoever violates Section 20 shall be liable for imprisonment for a term not exceeding one (1) year or for a fine not exceeding one million (1,000,000) Baht, or both.

Section 130. Whoever obstructs or declines to comply with the order the Commission, the sub-committee or the person appointed by the Commission under Section 24 and exercising their authority under Section 25, or the competent officials who orders under Section 122, shall be liable for imprisonment for a term not exceeding one (1) year or for a fine not exceeding one million (1,000,000) Baht, or both.

Section 131. Whoever fails to provide assistance to the competent official under Section 122 or Section 123 shall be liable for imprisonment for a term not exceeding six (6) months or for a fine not exceeding ten thousand (10,000) Baht, or both.

Section 132. Any person who misrepresents or provides distorted information to the Commission, the sub-committee or the person appointed by the Commission under Section 24, and hence damage arises against the Office, energy consumer, licensee, or other person, shall be liable for imprisonment for a term not exceeding six (6) months or for a fine not exceeding five hundred thousand (500,000) Baht, or both.

Section 133. Whoever violates Section 47, paragraph one or Section 59, paragraph one, shall be liable for imprisonment for a term not exceeding two (2) years or for a fine not exceeding ten million (10,000,000) Baht, or both.

In addition to the punishment under paragraph one, the violator of Section 47, paragraph one, shall be subject to a fine of not exceeding twenty thousand (20,000) Baht per day so long as the violation still continues.

Section 134. Whoever fails to comply with the order of the Commission issued under Section 127 as a result of a violation of Section 96 paragraph one, shall be liable to imprisonment for a term not exceeding one month or a fine not exceeding twenty thousand (20,000) baht per day so long as the violation continues.

Section 135. Whoever violates Section 61 (1), Section 76, paragraph one or Section 84, paragraph two, shall be liable for imprisonment for a term not exceeding two (2) years or for

a fine not exceeding four million (4,000,000) Baht, or both.

Section 136. Any licensee for inspection and standard certification organization undertakes the operation under Section 77 (2) shall be liable for imprisonment for a term not exceeding two (2) years or for a fine not exceeding four million (4,000,000) Baht, or both.

Section 137. Whoever violates Section 116, paragraph two, or Section 117, shall be liable for imprisonment for a term not exceeding ten (10) years or for a fine not exceeding ten million (10,000,000) Baht, or both.

Section 138. Whoever violates Section 118, shall be liable for imprisonment for a term not exceeding six (6) months or for a fine not exceeding ten thousand (10,000) Baht, or both.

If such act causes the energy network system to be destroyed, damaged, lessened in value, or useless, the offender shall be liable for imprisonment for a term not exceeding two (2) years or for a fine not exceeding two hundred thousand (200,000) baht, or both.

Section 139. Whoever clandestinely uses the services of a licensee without legitimate rights, which causes damage to the licensee, shall be liable for imprisonment for a term not exceeding three (3) years or for a fine not exceeding three hundred thousand (300,000) Baht, or both.

Section 140. For any offences under Sections 131, 132, 134 or 138 paragraph one, the Commission shall have the authority to settle the case by imposing a fine instead. For this purpose, the Commission may appoint a sub-committee to undertake the fine settlement in its place and may establish the settlement criteria or set up any conditions for the execution of duties of the sub-committee.

In the case where an offence is apparent to the investigation officers and the offender agrees to the settlement, the investigation officers shall, without delay, submit the case to the Commission for further consideration of the settlement.

When the offender has paid the fine imposed on him through the settlement, the case shall become final under the Criminal Procedure Code.

Section 141. In the event that the one who has committed an offence and who shall be punished under this Act is a juristic person, the managing director, the manager or the person responsible for the business operation of that juristic person shall also be punished pursuant to the provision dealing with that offence, unless he can prove that the offence of the juristic person has been carried out without his knowledge or consent.

TRANSITIONAL PROVISIONS

Section 142. At the initial stage, the selection of the Commission shall be completed within one hundred and twenty (120) days as from the date on which this Act takes effect.

The National Energy Policy Council shall perform the duties of the Commission until His Majesty the King graciously appoints the Commission under this Act.

Section 143. The Director of the Energy Policy and Planning Office shall perform the duties of the Secretary-General, and the Energy Policy and Planning Office shall perform the duties of the Office until the Secretary-General is appointed and the Office established under this Act.

Section 144. For the purpose of enhancing efficient operation of the Office, the Minister, with the cabinet approval, may instruct government agencies, local government agencies or other state agencies to support the secondment of their civil servants, staff members or employees to assist with the work of the Office on a temporary basis, while obtaining a salary from their respective original affiliation but being under the Secretary-General's supervision.

Section 145. Civil servants, staff members and employees of the Office of the Permanent Secretary for Energy, Department of Mineral Fuels, Energy Business Department, Alternative Energy Development and Efficiency Department, and the Energy Policy and Planning Office, who voluntarily become a staff member or employee of the Office, shall notify his intention in writing to his supervisor within 180 days from the effective date of this Act.

Placement and appointment of staff members and employees of the Office under paragraph one to any position in the Office shall be in accordance with the positions, qualifications and rate of salary or wages as prescribed by the Commission.

Placement and appointment of civil servants under this Section shall be deemed as a discharge from government service due to termination or dissolution of position by the government service under the law on pension of civil servants or the law on civil servants' pension fund, as the case may be.

Placement and appointment of employees under this Section shall be deemed as discharge from employment due to dissolution of position by the government service or termination of employment by the government service without fault, and the employee shall be entitled to severance pay under the regulations of the Ministry of Finance regarding employee severance pay.

Section 146. From the effective date of this Act, the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority, Provincial Electricity Authority and PTT Plc. may continue energy operation until a license is received under this Act.

During the energy operation under paragraph one, Electricity Generating Authority of Thailand, Metropolitan Electricity Authority, Provincial Electricity Authority and PTT Plc. shall comply with the law regarding the Electricity Generating Authority of Thailand, the law regarding Metropolitan Electricity Authority, the law regarding Provincial Electricity Authority and the Royal Decree regarding Prescription of Powers, Rights and Benefits of PTT Plc., as the case may be.

Section 147. All powers, rights and benefits enjoyed by the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority and Provincial Electricity Authority under the laws regarding the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority and Provincial Electricity Authority shall continue to the extent not contrary to or inconsistent with this Act.

Section 148. The provisions relating to the acquisition of immovable properties by expropriation enjoyed by the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority and Provincial Electricity Authority shall continue to be in force.

Section 149. In order for the energy operation by PTT Plc. to continue under Section 146, Section 26 paragraph four of the State Enterprise Capital Act B.E. 2542 shall not apply to PTT Plc. until PTT Plc. receives a license under this Act. During such period, the Royal Decree Prescribing Powers, Rights and Benefits of PTT Plc. B.E. 2544, as amended by Royal Decree Prescribing Powers, Rights and Benefits of PTT Plc. (No. 2) B.E. 2550 shall continue to be in force.

Section 150. Within 180 days from the effective date of the regulations of the Commission under Section 50, the Commission shall issue a license for energy operation under this Act to the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority, Provincial Electricity Authority and PTT Plc. according to the nature and type of operation, scope of business provision, and rights in connection with provision of electricity or natural gas services within the responsibilities of the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority, Provincial Electricity Authority and PTT Plc. existing on the effective date of this Act.

In issuing a license under paragraph one, the Commission shall impose conditions on operation by the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority, Provincial Electricity Authority and PTT Plc. as appropriate, taking into account the existing rights and obligations of the energy operators and benefits previously received by energy consumers, and development to achieve quality and efficient services or for any other purposes to achieve the objectives of this Act.

Section 151. Within 180 days as from the date on which the regulations of the Commission under Section 50 take effect, the Commission shall issue the energy operation licenses under this Act to the energy operators related to the development of natural gas fields in the Joint Development Area under the law on the Establishment of the Joint Authority of the Kingdom of Thailand-Malaysia, who provide gas transmission through the gas pipeline to Malaysia, who undertake the business prior to the effective date of this Act and who is regarded as an energy operator required to apply for a license under this Act. In issuing of such license, the energy operators' contractual agreements and conditions existing prior to the effective date of this Act shall be taken into account, and the rights or benefits of the parties thereto shall not be affected.

Section 152. For energy operation by state agencies other than the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority, Provincial Electricity Authority and PTT Plc., the provisions of Sections 146 and 150 shall apply *mutatis mutandis*.

Section 153. Connection of power systems and connection of power network systems approved by the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority and Provincial Electricity Authority before the effective date of this Act may continue, and it shall be regarded as a connection of energy network systems subject to this Act.

Petroleum transportation pipeline zone announced before the effective date of this Act shall be regardless as an energy network system zone under this Act.

Section 154. An energy operator operating business before the effective date of this Act and regarded as an energy operator that requires a permission under this Act, except the Electricity Generating Authority of Thailand, Metropolitan Electricity Authority, Provincial Electricity Authority, PTT Plc. and other state agencies under Section 152 may continue energy operation, and shall file an application for a license under paragraph two.

The energy operator under paragraph one shall file an application for a license under this Act within 60 days from the effective date of the regulations of the Commission under Section 50. Upon filing the application for a license, its operation may continue until an order refusing issuance of a license is received from the Commission.

Where the said energy operator receives a license from other state agency before the effective date of this Act, the Commission shall issue the license under paragraph two, taking into account the existing rights and obligations and the benefits previously received by the energy consumers, and the development for quality and efficient service provision to achieve the objectives of this Act.

Energy operation by an energy operator under paragraphs one and two shall be subject to any permissions given under the Announcement of the National Executive Council No. 58 dated January 26, B.E. 2515, the law on energy development and promotion, law on the Electricity Generating Authority of Thailand, law on factories or other laws related to energy operation, until a license under paragraph two is received.

Section 155. The Electricity Generating Authority of Thailand, Metropolitan Electricity Authority, Provincial Electricity Authority, PTT Plc., Department of Mineral Fuels, Department of Energy Business, Department of Alternative Energy Development and Efficiency, Energy Policy and Planning Office and other state agencies in charge of granting permission and supervision or control of energy operation shall submit information on energy operation to the Commission in accordance with the rules, procedures, conditions and within the period prescribed by the Commission.

Countersigned by

General Surayud Chulanont
Prime Minister

(Ref: Government Gazette, Volume 124, Part 89 Kor, of 10th December B.E.2550 (2007))