Rulebook on Protection of Confidential Information (Official Gazette of the Federation BiH, 70/06) and Rulebook on Amendments of Rulebook on Protection of Confidential Information (Official Gazette of the Federation BiH, 71/14)

RULEBOOK
ON PROTECTION OF CONFIDENTIAL INFORMATION

PART ONE GENERAL PROVISIONS

Article 1
(Subject-matter)

(1) This Rulebook prescribes term and types, and measures and procedures for determination, usage and protection of confidential information in the possession of Regulatory Commission for Energy in the Federation Bosnia and Herzegovina (hereinafter called FERK).

(2) Measures and procedures for the protection of confidential information prescribed by this Rulebook shall be obligatory for any person granted access to confidential information by FERK.

Article 2
(Definitions)

(1) The confidential information in the sense of this Rulebook is the information that has been determined as confidential in accordance with applicable laws, other rules by FERK or any other authorized body, passed based on the law, that would, if disclosed, endanger the interests or integrity of FERK, other natural or legal persons.

(2) Information, in the sense of this Rulebook are documents, and their contents and attachments, things, measures and procedures as well as verbal information and data of confidential nature presented in a FERK work.

(3) Documents, in sense of this Rulebook are all written compositions (acts, working materials, proposals and drafts of acts, tables, charts, drawings and similar).

(4) Things, in the sense of this Rulebook, are setups, models, samples, photos, films, microfilms and other registries that have been registered on the certain background either by light, sound, machine, manually or any other way.

(5) Measures and procedures, in the sense of this Rulebook are all types of orders, decrees, instructions, notices and other actions taken by FERK authorized personnel.

(6) The file, in the sense of this Rulebook, is a set of documents and enclosures that are related to the same issue or task and are treated as one unit.
Article 3
(The Obligation to Submit Information to FERK)

(1) FERK may request from each licensee to provide any information, including confidential ones that are necessary for acting in accordance with its jurisdictions determined within Law on Electricity in the Federation of Bosnia and Herzegovina, Law on Usage of Renewable Sources and Efficient Cogeneration and other laws from the field of energy.
(2) The Licensee shall provide the data and information referred to in paragraph (1) of this Article within the deadlines set and shall cooperate with FERK.
(3) FERK may use the information obtained from a licensee only for the purpose of performing activities prescribed within its jurisdictions pursuant laws.

PART TWO TYPES OF CONFIDENTIAL INFORMATION

Article 4
(Types)

(1) In the sense of this Rulebook, the types of confidential information are official secret and business secret.
(2) The official secret is the confidential information collected and used for FERK needs, and that has been determined as official secret by law, other rule, or general act passed by FERK based on the law.
(3) The business secret is the confidential information that has been determined as business secret by law, other rule, or general act passed by company, organization or other legal entity and that represents manufacturing secret, results of research or construction work, and other information, which if disclosed to non-authorized person would make damage to the economic interests of company, institution or other legal person.
(4) The public are entitled to review all information filed with FERK that is not confidential with exception of personal information, for which it is taken that are confidential and because of that it is not necessary to specially mark them.

Article 5
(Confidential Information in FERK)

The confidential information especially includes:

a) Information proclaimed by FERK as official secret,
b) Information that FERK determines is confidential in accordance with applicable laws or rules,
c) Information made available to FERK during the proceeding that it conducts based on the Law on Electricity in the Federation of Bosnia and Herzegovina, Law on Usage of Renewable Sources and Efficient Cogeneration and other laws from the field of energy determining FERK’s jurisdictions and rules and regulations of FERK, and that are related to commercially sensitive data from the contract,
d) The information that contain elements of bids or request for participation in the procedure for procurement contract award until the publishing of the results of the procedure for procurement contract award,

e) Personal information on employees/Commissioners of FERK,

f) Information from contract on business-technical cooperation,

g) Information from contracts signed upon the citizen-legal relation with business partners,

h) Information on material-financial business,

i) Information on possibility to pay liabilities,

j) Programs of business policy (plans and strategies),

k) Information on statements of claims and debts,

l) Measures and plans related to insurance of the facilities and property, manner of actions in the extraordinary circumstances etc.,

m) Other information, disclosure of which to unauthorized persons, because of their nature, significance and character would be against the interests of FERK or other natural or legal person.

Article 6
(Other Confidential Information)

(1) In addition to information defined by point c) paragraph (1) Article 5 of this Rulebook, FERK preserves the confidentiality of the following information:

a) that have been disclosed as confidential to it by other legal or physical persons,

b) information that have been determined as confidential having special economic interest by law, other rule, or general act passed based on the law.

(2) The information from paragraph (1) of this Article are handled pursuant provisions of this Rulebook.

PART THREE INDICATION, REGISTERING AND SUPERVISION ON PROTECTION OF CONFIDENTIAL INFORMATION

Article 7
(Indication)

(1) The document, together with enclosures of the document, printed on the paper or in electronic form saved on the respective media, that represents confidential information in the sense of this rule will be put in the sealed envelope, and envelope will be indicated as "CONFIDENTIAL." The envelope is specially archived and kept in the locked closet in FERK room that has limited access.

(2) Indication of the document from paragraph (1) of this article is performed by the person upon special authorization of FERK.

(3) The registering of the document from paragraph (1) of this Article in the register books of FERK shall be done in accordance with the Code on Office Management and Archiving of FERK.
(4) Electronic database containing confidential information shall be indicated with the specific confidentiality indication and shall be locked by the password protecting from unauthorized access.

(5) Before the confidential information is verbally disclosed for the purpose of indication, previous warning on confidentiality shall be given that has the same importance as the written indication of the confidential information. If the circumstances allow, official note will be made on this verbal disclosing in written form and shall be attached to the file containing confidential information.

Article 8
(Registers)

On set-up, communication, submission and usage of confidential information, i.e. disclosure and disappearance of the confidential information, a special register book shall be kept – register of confidential information, that contains information from the Articles 12 and 16 of this Rulebook.

Article 9
(Supervision)

Supervision on the implementation of protection of confidential information shall be done by FERK President or person authorized in writing by FERK.

PART FOUR     HANDLING CONFIDENTIAL INFORMATION

Article 10
(Handling Confidential Information)

(1) FERK staff that handle confidential information cannot without authorization give it to anyone for review or usage, or give any statements related to it.

(2) FERK staff that work on concepts, design and copying of the document that contains confidential information shall destroy any traces of concepts, i.e. safe keep the documents i.e. protect program (document) in the computer and other material that could disclose the contents of the confidential information.

(3) Original confidential documents, submitted in the FERK’s proceeding, shall be returned to the owner after completion of the proceeding if the owner requests it in written.

Article 11
(The Submission of Information to FBiH Parliament)

The submission of confidential information to FBiH Parliament or to other competent institutions through reports approved by the FERK is not considered to be disclosing confidential information. FERK will take appropriate steps to ensure that submitted information are treated as confidential by the recipients.
Article 12
(Disclosing the Confidential Information)

(1) In the case of disclosure or disappearance of document or media on which the confidential information is saved in electronic form, the person from Article 9 of this Rulebook shall take immediate necessary measures to eliminate adverse consequences and determine the circumstances under which the disclosure i.e. disappearance has happened.

(2) The disclosure i.e. disappearance of document or media from paragraph (1) of this Article is registered in the registry book of confidential information from Article 8 of this Rulebook, with the indication of information type, circumstances under which the information has disappeared i.e. is disclosed, measures taken by FERK and other persons, and short estimation of the consequences of the disappearance i.e. disclosure of information.

PART FIVE PROTECTION OF CONFIDENTIAL INFORMATION

Article 13
(Keeping Confidential Information)

(3) All FERK Commissioners, FERK staff, associates and members of consultation bodies of FERK shall keep the confidential information made available for them during the performance of duties or tasks in FERK, pursuant this Rulebook.

(4) The obligation to keep the confidential information lasts even after termination of performance of duties, service or employment of persons in FERK.

Article 14
(Communication of Confidential Information)

(1) The confidential information may be communicated to third person by President or FERK Commissioner, or FERK staff member upon the special written authorization of FERK.

(2) In communication of confidential information, the person from paragraph (1) of this Article shall stipulate that this information is confidential and shall warn the person to whom is communicated on the obligation to keep confidential information and responsibility in the case it is disclosed.

Article 15
(Communication of Business Secret)

(1) When it is necessary, for performance of FERK work, confidential information that represents business secret defined in this Rulebook, may be communicated to persons authorized by FERK from Article 14, paragraph (1) of this Rulebook, with previous written agreement of the owner of the confidential business information.
(2) In the request requiring the agreement from paragraph (1) of this Article the following should be stated:
   a) what is the subject information,
   b) to whom it is going to be communicated,
   c) who is the authorized person to do the communication,
   d) the reason why the communication is necessary,
   e) the manner in which the information shall be communicated or used.

(3) As exception, during the formal hearing proceedings, that FERK conducts in accordance with the FERK Rules on Hearing Procedures and Resolving Requests, Disputes and Claims, the confidential information representing business secret of one party at the proceeding, FERK may communicate without the approval of the party at the proceeding whose information is, to other party at the proceeding, if it is necessary for the determination of legally relevant factual situation. The other party in the proceeding that receives the business secret shall not disclose it to anyone outside the proceeding, and shall not use that confidential information for any other purposes.

(4) In the case from paragraph (3) of this Article, the provisions of FERK rules and regulation on exclusion of the public from the hearing will be applied.

Article 16
(Registering of Communication of Confidential Information)

In register book of confidential information on communication of confidential information the following data should be entered:
- name and function of person, i.e. name of the entity to which confidential information is communicated or given
- what information has been communicated and in which scope
- when and for what purpose it has been communicated

Article 17
(Working with Document Containing Confidential Information)

Duplication, transcription, copying and making summaries from the document which contains confidential information may be done only with the previously obtained written permission of FERK.

PART SIX VIOLATION OF KEEPING CONFIDENTIAL INFORMATION AND RESPONSIBILITY

Article 18
(Violation of Keeping the Confidential Information)

As violation of keeping confidential information, the following is considered:
   a) each handling confidential information that is against this Rulebook,
b) unauthorized communication, delivery or making confidential information in any other way available,
c) obtaining the confidential information for the intention to deliver it to unauthorized person.

Article 19
(Exemptions)

(1) The communication of confidential information is not considered as violation of keeping the confidential information if that communication is done to natural persons or legal persons that may or should be communicated
   a) based on the law and other regulations,
   b) based on the authorizations that come out of duties performed, the position they are on or working position they are employed on.
(2) The communication of confidential information is not considered as violation of keeping the confidential information if that communication is done on FERK sessions, if that communication is necessary for performance of work, and is done in accordance with Article 10 of FERK's Rules on Procedure.
(3) The authorized person from Article 14, paragraph (1) of this Rulebook that communicates the information considered confidential on the session shall warn the present persons that this information is considered confidential, and present persons shall keep confidential the information they have become aware of at this occasion.

Article 20
(Special Exemption)

The communication of information is not considered as violation of keeping the confidential information when it is done by the person who does it for the reason of filing the crime act or violation to authorized body, and if it is communicated to steering body for the realization of its rights from labour relations.

Article 21
(Responsibility of FERK Commissioners and Staff)

The violation of keeping confidential information by Commissioners and FERK Staff shall represent the violation of Code of Ethics for Commissioners and staff of Federal Regulatory Commission for Electricity, and be grounds for the termination of work contract.
PART SEVEN      TRANSITIONAL AND CLOSING PROVISIONS

Article 22
(Introduction of FERK Staff with Provisions of the Rulebook)

(1) The person from Article 9 of the Rulebook shall be responsible to directly inform FERK staff handling confidential information, representing official or business secret, or in any other way may be in contact with those information, with the provisions of this Rulebook as well as to ensure the consistent application of this Rulebook, and in the case of violation of the provisions of this Rulebook to immediately take respective measures.

(2) Other FERK staff is informed on the provisions of this rule by its publication.

Article 22a
(Interpretation)

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

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

Article 23
(Entry into Force and Publication)

This Rulebook enters into force on the day of its adoption and is published on FERK’s Bulletin Board and website, as well as in the Official Gazette of the Federation BIH.