

CIRCULAR

PROCEDURES FOR ISSUANCE AND REVOCATION OF ELECTRICITY LICENSES

Pursuant to the Government's Decree No. 98/2017/ND-CP dated August 18, 2017, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade;

Pursuant to the Law on electricity dated December 03, 2004; the Law on amendments to the Law on electricity dated November 20, 2012;

Pursuant to the Government's Decree No. 137/2013/ND-CP dated October 21, 2013 detailing the implementation of a number of articles of the Law on electricity and the Law on amendments to the Law on electricity;

Pursuant to the Government's Decree No. 08/2018/ND-CP dated January 15, 2018 on amendments to Decrees on investment and business requirements under the authority of the Ministry of Industry and Trade;

At the request of the General Director of the Electricity Regulatory Authority of Vietnam;

The Minister of Industry and Trade promulgates a Circular on procedures for issuance and revocation of electricity licenses.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Circular provides for procedures for issuance and revocation of electricity licenses and validity of electricity licenses regarding the following activities:

1. Electrical consulting services

a) Consultancy on investment and construction of electricity works, including thermal power plants (including biomass power plants and waste-to-energy plants), hydropower plants and other renewable-energy power plants; transmission lines and substations;

b) Consultancy on supervision of execution of electricity works, including thermal power plants (including biomass power plants and waste-to-energy plants), hydropower plants and other renewable-energy power plants; transmission lines and substations.

2. Electricity generation.

3. Electricity transmission.

4. Electricity distribution.

5. Electricity wholesaling.

6. Electricity retailing.

Article 2. Regulated entities

This Circular applies to institutional or individual entities that engage in the electricity industry, including the following electricity activities such as electricity consultancy, generation, transmission, distribution, wholesaling and retailing.

Article 3. Electricity license exemptions

1. The generation of electricity is to serve domestic consumption without selling electricity to any other organizations or individuals.

2. The generation of electricity with an installed capacity of not exceeding 01 MW (or 01 MWp if it is a solar power plant installed at a single location and having one point of connection) is to sell electricity to other organizations or individuals.

3. Electricity traders in rural, mountainous or island regions purchase electricity with a capacity of not exceeding 50 kVA from electricity distributors for supplying electricity directly to consumers in such rural, mountainous or island regions.

4. Electricity activities are performed to serve the national electrical load dispatch and management of electricity market.

Article 4. Licensing rules and validity of an electricity license

1. Before the competitive electricity retail market runs, an electricity license is granted to engage in both electricity retailing and electricity distribution.

2. If an electricity generator applies for a license to retail electricity by using its own electrical grid without purchasing electricity supplied from the national electrical grid, an electricity license shall be granted to engage in both electricity retailing and electricity generation.

3. An electricity generation license shall be granted to the power plant's owner to run only one power plant. If the owner of a power plant leases it out to a third party, or hires or authorizes a third party to manage and operate that power plant, the electricity license must contain particulars of the lessee or the unit in charge of managing and operating the power plant.

4. Maximum validity periods of electricity licenses are provided for in the following table:

No.	Electricity activities	Validity
1	Electricity consultancy	05 years
2	Electricity generation	
a)	Power plants that are on the list of large-scale power plants which have special importance in socio-economic, national defense and security aspects approved by the Prime Minister	20 years
b)	Power plants that are not on the list of large-scale power plants which have special importance in socio-economic, national defense and security aspects approved by the Prime Minister	10 years
3	Electricity transmission	20 years
4	Electricity distribution	10 years
5	Electricity wholesaling, electricity retailing	10 years

5. An applicant may also apply for an electricity license whose validity period is shorter than the corresponding one prescribed in Clause 4 of this Article.

6. Based on the actual conditions of each electricity work item, the licensing authority may consider granting an electricity license with a validity period shorter than the corresponding one prescribed in Clause 4 of this Article.

Article 5. Scope of each of electricity licenses

1. A license for electrical consulting services can be used nationwide.
2. A license for electricity generation can be used within the scope of each power plant.
3. A license for electricity transmission or electricity distribution can be used within the scope of management and operation of a specific electrical grid.
4. A license for electricity wholesaling or electricity retailing can be used within a prescribed administrative division.

Chapter II

APPLICATION FOR AN ELECTRICITY LICENSE

Article 6. Application for a license for electrical consulting services

An application for a license for electrical consulting services includes:

1. The application form for electricity license made using the Form No. 01 provided in the Appendix enclosed herewith.
2. The copy of the enterprise registration certificate, establishment decision or certificate of incorporation of the applicant.
3. The list of principal consultants made using the Form No. 3a provided in the Appendix enclosed herewith; the copies of academic qualifications, practicing certificate and labour contract signed with the applicant of each of listed consultants.
4. The list of projects of a similar scale which have been executed with the contribution of listed principal consultants.
5. The list of technical equipment and facilities, and application software used to provide consulting services.

Article 7. Application for a license for electricity generation

An application for a license for electricity generation includes:

1. The application form for electricity license made using the Form No. 01 provided in the Appendix enclosed herewith.
2. The copy of the applicant's enterprise registration certificate.
3. The list of technical managers and shift leaders of the power plant made using the Form No. 3b provided in the Appendix enclosed herewith; the copies of academic qualifications, electrical safety card and operation certificate, which is issued by the in-charge power load dispatch unit according to the National load dispatch procedure adopted by the Ministry of Industry and Trade, of each of listed shift leaders; the power plant lease agreement, service contract signed with the organization that is hired to manage and operate the power plant or the written authorization granting power to an organization to manage and operate the power plant in case the power plant is leased from or let out to a third party or a third party is hired or authorized to manage and operate the power plant.
4. The copy of the decision on approval for the power plant investment proposal or the investment project issued by a competent authority.
5. The copy of the decision on approval for the environmental impact assessment report or the written certification of the environmental protection plan for the power plant investment project issued by a competent authority in accordance with the Law on environment.

6. The list of equipment which must meet strict occupational safety requirements and be inspected in accordance with applicable laws.
7. The copy of the document verifying the fire safety system; the copy of the acceptance test report on the installed fire safety system.
8. The copy of the decision on approval for the reservoir operation procedures issued by a competent authority (if the license concerns a hydropower plant).
9. The copy of the acceptance test report on the installed generating unit or solar panel system; the copy of the document indicating primary specifications of the power plant (including turbine, generator and main transformer).
10. The copy of the acceptance test report on the installed IT infrastructure system and/or telecom infrastructure system serving the operation of electricity market; the copy of the acceptance test report on the installed SCADA system serving the operation of electricity network and electricity market.
11. The copy of the acceptance test report on hydropower dam; the hydropower dam protection plan, disaster and emergency response plans; the report on inspection of hydropower dam (if the periodical inspection of hydropower dam is due).
12. If a power plant or generating unit is not connected to the grids and generates electricity for supply in case of the national grid's failure, the document prescribed in Clause 10 of this Article is not required. If electricity generated by a power plant is retailed directly to consumers, the application must also include the list of consumers who buy electricity and the electrical grid diagram.

Article 8. Application for a license for electricity transmission or distribution

An application for a license for electricity transmission or distribution includes:

1. The application form for electricity license made using the Form No. 01 provided in the Appendix enclosed herewith.
2. The copy of the applicant's enterprise registration certificate, establishment decision or certificate of incorporation.
3. The list of technical managers and shift leaders made using the Form No. 3b provided in the Appendix enclosed herewith; the copies of academic qualifications, electrical safety card and operation certificate, which is issued by the in-charge power load dispatch unit according to the National load dispatch procedure adopted by the Ministry of Industry and Trade, of each of listed persons.
4. The list of key electrical grid works managed by the applicant and scopes thereof. In case of purchase, acquisition or transfer or the grids without capital recovery, the acceptance test report on the grid works or the transfer record must be submitted.

5. The copies of documents proving the applicant's satisfaction of fire safety requirements.
6. The copy of the agreement on connection of the applicant's grid to the national electrical grids; the map of the grid boundaries and its scope.

Article 9. Application for a license for electricity wholesaling or retailing

An application for a license for electricity wholesaling or retailing includes:

1. The application form for electricity license made using the Form No. 01 provided in the Appendix enclosed herewith.
2. The copy of the applicant's enterprise registration certificate, establishment decision or certificate of incorporation.
3. The list of executive managers made using the Form No. 3b provided in the Appendix enclosed herewith; the copies of academic qualifications and electrical safety card of each of listed managers.

Article 10. Application for modification of an electricity license

1. In case of changes in name or head office's address, the license holder must submit an application for modification of the issued electricity license, including:
 - a) The application form for electricity license made using the Form No. 01 provided in the Appendix enclosed herewith;
 - b) The copy of the applicant's enterprise registration certificate, establishment decision or certificate of incorporation.
2. If a license holder transfers its licensed electricity work to another organization, the transferee shall apply for an electricity license. In such case, the application includes:
 - a) The application form for electricity license made using the Form No. 01 provided in the Appendix enclosed herewith;
 - b) The copy of the applicant's enterprise registration certificate, establishment decision or certificate of incorporation;
 - c) Documents proving the transfer of the electricity work and documents about the applicant's technical managers and operation managers.

Chapter III

PROCEDURES FOR ISSUANCE AND REVOCATION OF ELECTRICITY LICENSES

Article 11. Procedures for issuance and modification of electricity licenses

1. At least 15 business days before its planned date of official operation, the organization engaging in the electricity industry must submit an application for electricity license which must include all required documents.

2. The applicant for issuance or modification of an electricity license shall submit an application which includes sufficient documents as prescribed in Chapter II hereof to the competent licensing authority and assume responsibility for the accuracy and truthfulness of the submitted application.

3. Forms of application submission:

a) Applications under the licensing authority of the Ministry of Industry and Trade or the Electricity Regulatory Authority of Vietnam shall be submitted through the online public service portal.

If the size of a document file is too large or the application includes documents which cannot be transmitted online as regulated by laws, the application may be submitted either directly or by post.

b) Applications under the licensing authority of provincial-level people's committees shall be submitted directly or by post or through the websites of the licensing authorities (if available).

4. Procedures for issuance and modification of an electricity license online:

a) The application shall be submitted online according to relevant instructions available on the online public service portal of the Ministry of Industry and Trade. To be specific:

- The applicant shall register for a user account on the online public service portal by accessing <http://online.moit.gov.vn>; use the registered user account to make required declarations and submit the application online;

- Within a maximum period of 15 business days from the receipt of satisfactory application on the online public service portal, the licensing authority shall verify the received application, conduct field inspection (where necessary) and issue the electricity license to the qualified applicant.

b) Provincial-level people's committees shall instruct the issuance of electricity licenses within their licensing authority through online service portal (where appropriate) in conformity with regulations herein.

5. Procedures for issuance and modification of an electricity license not through the online service portal:

a) Within 03 business days from the receipt of the application for electricity license, the licensing authority shall notify the applicant in writing if the application is unsatisfactory. Such written notification should indicate reasons for the dissatisfaction of the application, and request the applicant to supplement or modify documents, and provide other necessary documents and information;

b) Within 05 business days from the receipt of the request for modification of the application from the licensing authority, the applicant shall give a written response and provide additional documents as requested.

Within 60 business days from the date on which the licensing authority makes the written request for modification of the application, if the applicant fails to give a written response and provide additional documents, the licensing authority shall have the right to return the application;

c) Within a maximum period of 15 business days from the receipt of satisfactory application, the licensing authority shall verify the received application, conduct field inspection (where necessary) and issue the electricity license to the qualified applicant.

6. If the applicant is found not to satisfy relevant requirements or comply with relevant laws in the course of verification of the application or field inspection, the licensing authority shall request the applicant to take remedial measures to meet all licensing requirements or refuse to grant the license to the applicant in writing (reasons for refusal must be indicated).

7. An electricity license shall be issued in 03 originals of which an original is delivered to the license holder and the others are kept by the licensing authority.

8. At least 30 days before the expiry date of the electricity license, if the license holder wishes to continue its operations, it must apply for a new electricity license according to provisions set forth in Clause 2 of this Article and carry out procedures for licensing as regulated.

9. If a license is lost or damaged, the licensee must apply to the licensing authority for re-issuance of the electricity license. The application should indicate reasons for re-issuance.

Article 12. Revocation of electricity licenses

1. An electricity license shall be revoked in the following cases:

a) The license holder violates regulations laid down in Article 37 of the Law on electricity;

b) The electricity unit holding the license plans to shut down or transfer its licensed operations to another electricity unit;

c) The license is revoked at the request of a competent authority because the license holder is found to commit violations against relevant laws;

d) The license holder that is a generator fails to comply with regulations laid down in Clause 7 and Clause 8 Article 15 hereof;

dd) The license holder fails to comply with regulations in Point a Clause 11 Article 15 hereof.

2. An electricity license to be revoked shall result in suspension of a licensed operation and/or reduction of its scope. The electricity unit that has its electricity license revoked shall apply for modification of the issued electricity license according to the decision on revocation of electricity license.

3. Each licensing authority shall have the power to revoke electricity licenses which it has issued.

4. Procedures for revocation of an electricity license:

a) If the license holder commits any violation against regulations laid down in Article 37 of the Law on electricity or Clause 4 Article 15 hereof and the licensing authority has made decision on imposition of penalties for that violation, the licensing authority shall make the decision on revocation of electricity license when it makes the decision on imposition of penalties for violation;

b) If the license holder commits any violation against regulations laid down in Article 37 of the Law on electricity or Clause 4 Article 15 hereof and the decision on imposition of penalties for that violation has been made by a competent authority other than the licensing authority, the licensing authority shall issue the decision on revocation of electricity license according to the period specified in the decision on imposition of penalties for violation. If the licensing authority decides not to revoke the electricity license, it must provide written reasons thereof for the authority that decides to impose penalties for that violation;

c) If the license holder commits violation against regulations laid down in Point a Clause 11 Article 15 hereof, the licensing authority shall have the right to make decision on revocation of electricity license;

d) If the license holder plans to suspend or transfer its licensed operation to another entity, within 30 business days from the receipt of written request from the license holder or a competent authority and relevant documents, the licensing authority shall make decision on revocation of electricity license.

5. Within 02 business days from the date on which the decision on revocation of electricity license, the licensing authority must send this decision to the electricity unit having its license revoke and relevant authorities, and publish information concerning such decision on its website.

Chapter IV

POWER TO ISSUE AND MANAGE ISSUED ELECTRICITY LICENSES

Article 13. Power to issue electricity licenses

1. The Ministry of Industry and Trade shall issue electricity licenses to qualified organizations to engage in the following sectors:

a) Electricity generation by power plants that are on the list of large-scale power plants which have special importance in socio-economic, national defense and security aspects approved by the Prime Minister;

b) Electricity transmission.

2. The Electricity Regulatory Authority of Vietnam shall issue electricity licenses to qualified organizations to engage in the following sectors:

a) Electricity generation by power plants that have a capacity of at least 03 MW and are not classified in the case prescribed in Point a Clause 1 of this Article;

b) Electricity distribution;

c) Electricity wholesaling;

d) Electricity retailing;

dd) Electrical consulting services.

3. Each Provincial-level People's Committee shall issue and revoke or authorize the Department of Industry and Trade of that province to issue and revoke electricity licenses in the following sectors:

a) Electricity generation by a power plant that has a capacity of less than 03 MW and is located in the province;

b) Electricity distribution with a voltage up to 35 kV in the province;

c) Electricity retailing with a voltage up to 0.4 kV in the province;

d) Electrical consulting services, including:

- Consulting services provided by an enterprise of which the registration is made at the province on the investment and construction of transmission lines and electrical substations with a voltage up to 35 kV;

- Consulting services provided by an enterprise of which the registration is made at the province on the supervision of construction of transmission lines and electrical substations with a voltage up to 35 kV.

4. If an applicant applies for a license to provide consulting services in multiple electricity sectors, among which at least one consulting sector is under the licensing authority of the

Electricity Regulatory Authority of Vietnam, the Electricity Regulatory Authority of Vietnam shall take charge of considering issuing the electricity license in this case.

Article 14. Responsibility of licensing authorities

1. Receive, verify, check and manage applications for electricity licenses; Instruct applicants to follow procedures for application for electricity licenses herein.
2. Settle complaints about electricity licenses within their competence.
3. Inspect the maintenance of satisfaction of licensing requirements by license holders.
4. Revoke electricity licenses within their competence according to revocation procedures referred to in Article 12 hereof.
5. Request competent authorities to take actions against violations committed by electricity units in accordance with laws.

Article 15. Responsibility of holders of electricity licenses

Each license holder shall:

1. Perform licensed activities according to the issued license.
2. Apply for modification of the electricity license upon the occurrence of changes in its name, head office's address, operating type, electricity unit in charge of managing and operating the relevant power plant, scope and validity of the license.
3. Maintain its satisfaction of licensing requirements during its operation.
4. Comply with relevant laws.
5. Fully pay licensing fees as regulated by laws.
6. Do not lease, lend or alter contents of the license.
7. Before starting its commercial operation, the license holder that is an electricity generator must:
 - a) Enter into a power purchase agreement as regulated (except for hydropower plants on the Prime Minister's List of large-scale power plants which have special importance in socio-economic, national defense and security aspects and the Ministry of Industry and Trade's List of power plants whose operations are carried out in cooperation with large-scale power plants which have special importance in socio-economic, national defense and security aspects; hydropower plants whose accounting is dependent to Power Corporations as defined in the written proposal of the Vietnam Electricity);

- b) Have SCADA system installed to serve the operation of electrical grids as regulated;
- c) Have IT infrastructure system and/or telecom infrastructure system installed to serve the operation of electricity market (for power plants directly participating in the electricity market);
- d) Comply with other regulations on management and operation of power plants laid down in relevant legislative documents.

8. Within 12 months from the date on which the license for electricity generation is issued, the license holder must provide:

- a) The copy of the acceptance test report on the fire safety system issued by a competent authority;
- b) The copy of the acceptance test report on the installed SCADA system serving the operation of electrical grids and electricity market as regulated;
- c) The copy of the acceptance test report on the installed IT infrastructure system and/or telecom infrastructure system serving the operation of electricity market as regulated;
- d) The copies of decisions issued by competent authorities on approval for hydropower dam protection plans and reports on inspection of hydropower dam as regulated (for hydropower plants).

9. Bear the inspection and comply with decisions of competent authorities on penalties for violations concerning the license and licensing requirements.

10. Keep the issued electricity license at its head office.

11. Fulfill reporting obligations. To be specific:

- a) Submit a report to the licensing authority within 30 days from the occurrence of change in the head office's address specified in the license;
- b) Submit a report immediately to the licensing authority on loss or damage to the license;
- c) By March 01 each year, submit reports to the licensing authority and Provincial Department of Industry and Trade on the maintenance of satisfaction of licensing requirements and operating results achieved in the previous year by using Form No. 4a, 4b, 4c and 4d provided in the Appendix enclosed herewith.
- d) Submit a report to the licensing authority at least 60 days before the planned date of suspension or transfer of licensed electricity operation to another entity;
- dd) Submit reports which indicate sufficient and accurate information at the request of the licensing authority or a competent authority.

Article 16. Management and operation of a power plant which is let out to another entity, or by a hired or authorized entity

1. The investor of a power plant must fulfill obligations relating to the investment and operation of that power plant in accordance with applicable law soft.
2. The entity that leases the power plant or is hired or assigned or authorized to manage and operate the power shall fulfill all obligations relating to the operation of the power plant according to terms and conditions of the lease agreement or the written authorization granting power to manage and operate the power plant.

Chapter V

IMPLEMENTATION

Article 17. Inspection

1. The Electricity Regulatory Authority of Vietnam shall inspect the implementation of this Circular nationwide; respond to queries concerning this Circular and request the Ministry of Industry and Trade to make necessary amendments to this Circular.
2. Provincial-level people's committees shall inspect the implementation of this Circular within their management scope; respond to queries concerning this Circular and request the Ministry of Industry and Trade to make necessary amendments to this Circular.

Article 18. Responsibility for implementation

1. The Electricity Regulatory Authority of Vietnam shall receive and adopt procedures for processing applications for electricity licenses and adopt procedures for revocation of electricity licenses under the licensing authority of the Electricity Regulatory Authority of Vietnam and the Ministry of Industry and Trade.
2. Provincial Departments of Industry and Trade shall receive and adopt procedures for processing applications for electricity licenses and adopt procedures for revocation of electricity licenses under the licensing authority of Provincial-level people's committees when they are authorized.
3. Each electricity unit that is granted the electricity license shall send the copy of its electricity license to the local electricity authority within 30 days from the date of issue of the electricity license.
4. Each Provincial Department of Industry and Trade shall submit reports to the Ministry of Industry and Trade and the People's Committee of that province on the issuance and revocation of electricity licenses in the province in the previous year by March 01 each year.

Article 19. Effect

1. This Circular comes into force from December 06, 2018. The Circular No. 12/2017/TT-BCT dated July 31, 2017 of the Minister of Industry and Trade shall be null and void from the date of entry into force of this Circular.

2. In case an electricity license needs to be adjusted because of changes in name or head office's address or transfer of assets of the licensee, it shall be still valid until the new license is issued.

3. Electricity licenses issued before the date of entry into force of this Circular shall still valid until their expiration dates and holders of these licenses must strictly comply with regulations herein and relevant laws promulgated after the licensing dates./.

MINISTER

Tran Tuan Anh

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