

# Energy industry operation licenses



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The Energy Industry Act BE 2550 (2007), effective since December 2007, expresses the intention of the Thai government to restructure the management of the energy industry sector, notably in the areas of electricity and natural gas business activities. Since enactment, the regulatory powers in this sector including for the issuance of the energy industry operation licenses and establishment of measures, regulations and guidelines have been assigned to a newly created authority, the Energy Regulatory Commission (ERC).

At the time of publication, there is no implementing regulation under the Energy Industry Act stipulating the specific requirements and procedures to apply for any energy license. However, further developments are expected with a recent significant move on June 30, 2008 with the commencement of a large public consultation by ERC on 6 draft regulations (the 'Draft Energy Regulations') to address matters related specifically to energy licensing (notably relevant types of business, term, license extension application and fees).

The Draft Energy Regulations exempt five types of businesses from applying for energy licenses. Such exempted businesses include those with: projects of electricity generation with a power generation supply lower than 1,000 KW; use of the aforesaid electricity power within the same entity; electricity distribution with a power distribution supply lower than 1,000 KW; electricity system operators without direct power generation; and natural gas storage and transformation process from liquid to gas with natural gas quantity of less than 5,000 liters.

Although specific energy licenses are not required, the relevant energy operators still need to report the existence of the relevant business activities to the ERC Office for statistical purposes. The drafts also provide the ERC officials are to advise and issue certificates to the reporting operator promptly. Any power operators other than those exempted

as mentioned previously must obtain energy licenses.

Further, the Draft Energy Regulations distinguish two types of business operation licenses, the electricity license and the natural gas license. The validity of each type of license will depend on the relevant information declared by the applicant regarding the nature of the intended operations and on the energy quantity that can be supplied. The maximum period of the license will not be longer than 30 years while the natural gas license will be 20 years.

License holders must be an individual, a company or a state enterprise which can refer to valid identification documents (ie an ID card, corporate documents, etc). Applicants are further required to provide further documents as relevant (for example, energy business plan, security policy, environmental impact assessment and management plan).

The relevant officer of the ERC will examine all the information provided by the applicant and prepare within 45 days an opinion for ERC consideration. The ERC will consider both the information and official's opinion within 30 days. Meanwhile, if the project envisaged in the application involves construction of building or factory, the ERC will ask for the advice of the relevant authorities. Also, if the ERC finds any potential social or environmental issue to arise from the project presented in the application, public consultation might be required. After this complete consideration process, the official will notify the result to the applicant. If approval is granted, a license will be issued once the applicant has paid the relevant government fees. On the contrary, if the ERC rejects the application, it is required to provide the applicant the reasons for such rejection.

The Drafts Energy Regulations are expected to be enacted and be effective within the next six months. If this timeline is confirmed and if the drafts are unchanged, it might be an appropriate time for currently operating operators who either hold invalid licenses or do not hold any licenses to envisage relevant actions to comply with the new upcoming licensing requirements.

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