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ELECTRICITY MARKET ACT

(386/1995; amendments up to 1172/2004 included)

In accordance with a decision by Parliament, the following is enacted:

Chapter 1 - General Provisions

Section 1 – Objectives (1172/2004)

The purpose of this Act is to ensure preconditions for an efficiently functioning electricity market so as to secure the sufficient supply of high-standard electricity at reasonable prices. The primary means to do this is to secure a sound and well-functioning economic competition in electricity generation and sales and reasonable and equitable service principles in the operation of electricity systems.

Undertakings operating in the electricity market are responsible, for example, for providing their customers with services relating to the supply of electricity and for promoting electricity efficiency and conservation in their own business operations as well as in those of their customers.

Section 2 – Scope (1172/2004)

This Act is applicable to the electricity market, that is, the generation, import, export, transmission and sale of electricity.

The provisions under chapters 2 and 3 and sections 36 and 36 a shall not be applied to the electricity systems and power plants of the defence administration. (1172/2004)

The provisions on system operators of this Act shall be applied to a body or an establishment engaged in licensed electricity system operation that has control over an electricity system, unless the electricity market authority has by its decision exempted the system operator from the licence requirement. (444/2003)

The provisions on retailers of this Act shall be applied to an electricity vendor that directly sells electricity through the distribution system of a system operator to users of electricity, unless otherwise provided below. (444/2003)

Section 3 *Definitions* (1172/2004)

In this Act:

- (1) *electricity system* means an interconnected entity consisting of power lines, substations and other appropriate electric devices and equipment, intended for the transmission or distribution of electricity;
- (2) *distribution system* means an electricity system with a nominal voltage less than 110 kilovolts;
- (3) *service line* means a power line for a single subscriber providing a link to the electricity system, which does not cross the national border; (1172/2004)
- (4) *bulk sale of electricity* means sale of electricity to retailers and large-scale electricity consumers;
- (5) *retail sale of electricity* means sale of electricity direct to the electricity consumers via the distribution system of the distribution system operator;
- (6) *electricity system operation* means placing the electricity system against payment at the disposal of anyone needing transmission and similar system services; electricity system operation also includes any such design, construction, maintenance and use of electricity system, connection of customers' electric equipment to the system, metering of power, and other measures as are necessary for transmissions of electricity and for similar system services;
- (7) *transmission of electricity* means transport of electricity via the electricity system from one electricity trade participant to another;
- (8) *system operator* (holder of licence for an electricity system) means a body or an establishment in possession of an electricity system or some part of it, and engaged in licensed operation of an electricity system;
- (9) *distribution system operator* (holder of licence for a distribution system) means a system operator in possession of a distribution system or some part of it, and engaged in licensed operation thereof;
- (10) *has been repealed.* (444/2003)
- (11) *has been repealed.* (444/2003)
- (12) *the Ministry* means the Ministry of Trade and Industry; (1172/2004)
- (13) *the electricity market authority* means the Energy Market Authority; (1172/2004)
- (14) *balance determination* means determination of electricity transactions carried out during each hour; as a result, an electricity balance and a balance deviation report can be drawn up for each electricity market participant; (332/1998)
- (15) *national balance responsibility* means responsibility for maintenance of the balance between electricity generation and use in the whole country during each hour, as well as responsibility for national balance determination; (466/1999)
- (16) *balancing electricity* means electricity that is used by the entity discharging the duties included in national balance responsibility (*the balancing electricity entity*) for equalising the acquisition and supply volumes of electricity for each electricity market participant; and (466/1999)
- (17) *consumer* means a consumer referred to in section 4 of chapter 1 of the Consumer Protection Act (38/1978). (466/1999)

Chapter 2 - **Electricity system licence**

Section 4 – *Electricity system licence* (1172/2004)

Electricity system operation calls for a licence issued by the electricity market authority

(electricity system licence). The licence is granted on a temporary basis or, on special grounds, for a specified period. The licence may be granted to a body or an establishment.

No licence is needed for:

- (1) electricity system operation in which the electricity distribution inside a real estate or a corresponding group of real estates is only provided by an electricity system in possession of a body or an establishment;
- (2) design of an electricity system.

(1172/2004)

The electricity market authority may in individual cases allow, for a specified period or on a temporary basis, electricity system operation without an electricity system licence. The precondition is that the electricity system of the operator concerned is of minor significance within electricity transmission. (1172/2004)

Section 5 – *Granting an electricity system licence and the preconditions for the licence* (1172/2004)

An electricity system licence is granted if the applicant has the technical, economic and organisational capabilities needed for conducting its electricity system operations.

The preconditions of subsection 1 above are met, if:

- (1) the organisation of the applicant corresponds to the scope and nature of its system operations;
- (2) the applicant has a sufficient staff in its service;
- (3) the applicant has in its service an operating manager and, if the applicant carries out electrical works, a manager of electrical works, that meets the eligibility requirements laid down in or by virtue of the Electrical Safety Act (410/1996);
- (4) the applicant has the economic conditions for profitable electricity system operations;
- (5) the applicant has the right to decide on the resources needed for the operation, upkeep and development of an electricity system; and
- (6) the grid operator to be placed under the systems responsibility has delegated the functions related to the national balance responsibility to its separate operational entity or a subsidiary wholly owned by it.

Any conditions necessary for the requirements of subsection 1 can be imposed in the licence. The licence or its conditions can be amended with the consent of the licensee or otherwise, if the amendment is necessary owing to essential changes in the operating conditions.

The licence is not transferable to another body or establishment.

Section 6 – *Responsibility area of the distribution system operator* (1172/2004)

The electricity system licence granted to a distribution system operator specifies the licensee's geographical area of responsibility insofar as the distribution system is concerned.

The licensee may agree with another licensee on any changes concerning the area of responsibility. The subscribers in the area and the electricity market authority shall be notified of any changes. The electricity market authority may give more detailed regulations on the

information to be included in the notification and on the notification procedure. (1172/2004)

For a weighty reason, the electricity market authority may also make changes in the area of responsibility.

The licensee whose area of responsibility or any part thereof is transferred into the possession of another licensee, shall be responsible for the said area until the electricity market authority and the subscribers in the area have been properly informed of the change.

Section 7 – *Withdrawal of the electricity system licence* (1172/2004)

The electricity market authority may withdraw the electricity system licence:

- (1) if the licensee terminates its electricity system operation;
- (2) if the licensee no longer meets the prerequisites required for the granting of the licence; or (1172/2004)
- (3) if the licensee repeatedly and essentially violates this Act or the statutes or regulations issued under this Act.

Section 8 – *Measures following the withdrawal of the electricity system licence* (1172/2004)

If the electricity system licence is withdrawn, the electricity market authority shall decide, if necessary, on the measures to be taken for the upholding of the system operation concerned.

Unless it is agreed that the system be transferred under another system operator, the electricity market authority may decide on the transfer against payment. The criteria for compensation, and the determination of compensation, shall comply with the Act (603/1977) on the Redemption of Immoveable Property and Special Rights.

Chapter 3 - **General obligations and pricing principles of system operation**

Section 9 – *Obligation to develop and obligation to connect* (1172/2004)

The system operator shall maintain, operate and develop its electricity system and the connections to other systems in accordance with its customers' reasonable needs, and to secure, for its part, the supply of sufficiently high-standard electricity to its customers (*obligation to develop the electricity system*).

On request and against reasonable compensation, the system operator shall connect to its system electricity consumption sites and power generating installations meeting the required technical specifications within its area of operation (*obligation to connect*). The connection conditions and technical requirements shall be impartial and non-discriminatory and they shall take note of the conditions of the reliability and efficiency of the electricity system. At the request of the subscriber, the system operator shall give him a comprehensive and sufficiently detailed estimate on the subscription costs. (1130/2003)

The distribution system operator shall have publicly available general terms of contract (*terms of connection*) for customers that connect to the electricity system at a nominal voltage of 20 kilovolts at maximum and that are not electricity generating installations. (466/1999)

Section 10 – *Obligation to transmit* (1172/2004)

The system operator shall sell electricity transmission services against reasonable compensation to those that need them within the limits of its system transmission capacity (*obligation to transmit*).

The system operator shall organise the metering of the electricity supplied in an appropriate manner as provided in more detail by Government decree. The customer shall pay the system operator the reasonable measurement costs incurred by him. (244/2003)

Section 11 – *Obligation to notify electricity transmission* (1172/2004)

The Ministry may require that the electricity market authority and any international organisations concerned shall be notified of any requests concerning electricity transmission, commencement of negotiations and their results, if required by Finland's international commitments.

Section 12 – *Publicising the terms of sale and indicators of system services* (1172/2004)

The system operator shall publish the general terms of sale and the prices of its system services as well as the underlying criteria.

The system operator shall notify the current general terms of sale and the prices of its system services as well as the underlying criteria to the electricity market authority. The electricity market authority may issue more detailed regulations on the information to be given in the notification and on the notification procedure. (1172/2004)

The system operator shall publish economic indicators depicting the price level of its system services and the efficiency, quality and profitability of the system operations. The electricity market authority may issue more detailed regulations on which indicators the obligation to publish concerns, which formulae and instructions shall be applied in the calculation of the indicators and how the indicators shall be made public. (1172/2004)

Section 13 - *Items to be specified in the invoice of the distribution system operator* (1172/2004)

In invoicing, the distribution system operator shall give to its customer an itemised account of how the price of the system service is formed. The electricity market authority may issue more detailed regulations on what information should be included in an electricity transmission bill.

Section 14 – *General provisions on the sale conditions and pricing of system services* (1172/2004)

The sale prices and terms of the system services and the criteria according to which they are determined shall be equitable and non-discriminatory to all system users. Exceptions to them may only be made on special grounds.

The pricing of system services shall be reasonable.

The pricing of system services must not present any unfounded terms or restrictions obviously limiting competition within the electricity trade. However, the pricing shall take account of any terms needed for reliable operation and efficiency of the electricity system as well as the costs and benefits arisen by the connection of an electricity generation installation to a system. (1130/2003)

Section 14 a (444/2003)

Transmission fees on import or export of electricity (1172/2004)

The grid operator shall collect transmission fees on cross-border import or export of electricity, unless otherwise provided in the international obligations binding on Finland or the mutual contracts based on the reliability and efficiency of the electricity system and on the market conditions concluded by the grid operator or in other arrangements.

The transmission fees shall fulfil the conditions laid down in section 14 above.

Section 15 – *Spot pricing (1172/2004)*

The system operator shall, for its own part, create preconditions permitting the customer to conclude a contract on all system services with the system operator to whose system he is connected as subscriber.

The system operator shall, for its part, create preconditions permitting the customer to be granted the rights, in return for payment of the appropriate fees, to use from its connection point the electricity system of the entire country, foreign connections excluded (*spot pricing*).

Within a distribution system, the price of system services must not depend on where within the system operator's area of responsibility the customer is located geographically. However, in parts of the system operator's area of responsibility that are geographically separated, the transmission prices of each area shall apply. In individual cases the electricity market authority may grant an exemption for application of separate prices for transmission services, if the cost levels and pricing criteria of the parts of the distribution system holder's area of responsibility do not much differ from each other. (1172/2004)

Section 15 a (444/2003)

Provisions on the services related to changing the electricity vendor (1172/2004)

The system operator shall not collect a separate fee on registration and balance determination services and other corresponding services related to changing the electricity vendor.

The system operator shall not collect a separate fee on the reading of a measuring device in connection with changing the electricity vendor, if at least one year has elapsed from the customer's previous change of electricity vendors.

Section 15 b – *Acquisition of loss of energy* (1172/2004)

The system operator shall acquire the energy loss from its electricity system and the reserve power for operation of its electricity system by following open, non-discriminatory and market-based procedures.

Chapter 4 (332/1998)

Systems obligations and accounts of electricity deals (1172/2004)

Section 16 (332/1998)

Systems responsibility (1172/2004)

In the electricity system licence, the electricity market authority orders one grid operator to be responsible for the technical operability and reliability of Finland's electricity system and to discharge the duties involved in national balance responsibility in an appropriate manner that is equitable and non-discriminatory to all electricity market participants (*systems responsibility*). A grid operator under the systems responsibility shall upkeep and develop its activities and services within the systems responsibility and maintain, operate and develop its electricity system and other equipment needed for fulfilling the systems responsibility and the connection to other systems, so that the prerequisites for an efficiently functioning electricity market can be ensured. (444/2003)

In order to meet its responsibilities, a grid operator who has systems responsibility may impose conditions on the use of the electricity transmission system, as well as on the use of the power plants and loads connected to the electricity transmission system. The conditions are applicable to individual cases after the electricity market authority has by its decision authorised the conditions. The authorised conditions may be applied despite an appeal, unless the court of appeal provides otherwise. (1172/2004)

The grid operator under the systems responsibility shall publish, and make known to the electricity market authority, the currently valid terms applied to the sale and acquisition of services associated with the systems responsibility, including the grounds for determining these terms, and the sale and acquisition prices, including the grounds for determining these prices, as well as the conditions referred to in subsection 2.

Further provisions on the contents and fulfilment of the systems responsibility may be given by ministerial decree. (1172/2004)

Section 16 a (332/1998)

National balance responsibility (1172/2004)

The terms of acquisition for electricity needed for maintaining national balance responsibility, and the terms of trade for balancing electricity, shall be equitable and non-discriminatory to all electricity market participants, and they shall not contain any conditions or limitations that would be unfounded or that would obviously restrict competition within electricity trade. However, these terms shall take account of the conditions necessitated by the reliability and efficiency of the electricity system.

The pricing of balancing electricity shall be reasonable.

Section 16 b (332/1998)
Balance responsibility (1172/2004)

An electricity market participant shall be responsible for ensuring that the electricity generation and electricity acquisition contracts of the said participant cover the participant's electricity use and supplies during each hour (*balance responsibility*).

Further provisions on the contents of balance responsibility may be issued by Government decree. (1172/2004)

Section 16 c (332/1998)
Balance determination (1172/2004)

The system operator and other parties to the electricity market are responsible for balance determination. (1172/2004)

Balance determination shall be based on electricity metering, or on a combination of metering and type-loading curves, and on supply reports, as provided in more detail by decree. Further provisions on the content of balance determination and on the methods to be applied in the balance determination are given by Government decree. (1172/2004)

In addition to the provisions on system services in chapter 3, balance determination services must be offered on equitable and non-discriminatory terms to the electricity market participants. The balance determination services offered may not include any conditions or limitations that would be unfounded or that would obviously restrict competition.

Section 16 d – *Notification obligation concerning balance responsibility and balance determination* (1172/2004)

Electricity market participants are required to provide measurement data and other information on electricity generation, use and supply needed for fulfilling the balance responsibility and for balance determination. Further provisions on the notification procedure may be given by ministerial decree.

Section 16 e – *Secrecy obligation related to systems obligations* (1172/2004)

Sections 22 and 23 and paragraph 20 of section 24(1) of the Act on the Openness of Government Activities (621/1999) shall apply to the secrecy obligation of documents received or drawn up and of the information included in them while tending to duties referred to in this chapter or in provisions laid down by virtue of it, as well as to the pledge of secrecy and exploitation prohibition concerning the information received while tending to these duties and to breaching against the secrecy obligation, even when the case does not involve a document to which the act mentioned is applied under its section 4.

Chapter 5 - **Construction of an electricity system**

Section 17 – *Construction of a distribution system* (1172/2004)

The distribution system operator shall have sole right to construct a distribution system within its area of responsibility.

A third party is entitled to construct a distribution system within the distribution system operator's area of responsibility only if:

- (1) the system to be built is an electricity consumer's service line with which the place of electricity use is connected to the electricity system of the distribution system operator of the area of responsibility;
- (2) the system to be built is an electricity consumer's service line with which an electricity generating utility is connected to the electricity system of the distribution system operator or other system operator of the area of responsibility;
- (3) the system to be built is an internal system for a property or, respectively, a group of properties; or
- (4) the system operator permits another system operator to construct a system.

(1172/2004)

Systems referred to in subsection 2 above shall be connected at reasonable terms of connection to the system operator's system if they meet the reasonable structural requirements set by it. The system operator shall have the right to charge a reasonable fee to cover the costs of connection and operation of the system.

Section 18 – *Construction of high-voltage power lines* (1172/2004)

A licence shall be obtained from the electricity market authority for the construction of a power line with a nominal voltage of 110 kilovolts or above. For the construction of a cross-border power line with a nominal voltage of 110 kilovolts or above, a licence shall be obtained from the Ministry.

No licence is needed, however, for the construction of an internal power line inside a property.

The condition for granting a licence is that construction of a power line is necessary in order to secure electricity transmission. In addition, the condition for construction of a cross-border line is that its construction is otherwise appropriate in terms of the development of the electricity market and of mutuality. Terms considered necessary for the conditions of the licence can be included in the licence. (444/2003)

The licence shall be granted, notwithstanding subsection 3, for a service line with which the place of electricity use, electricity generating utility or an electric station of the distribution system operator of the area of responsibility is connected to the nearest electricity system with a minimum rated voltage of 110 kV. (1172/2004)

The licence does not specify the course of the power line. Prior to granting the licence, no area reservation or consent by the municipality as laid down in section 20 needs be obtained for the proposed course of the line.

Section 19 – *Applying for a construction licence and environmental impact assessment* (1172/2004)

The construction licence application shall contain the details and evidence laid down in more detail by Government decree. (1172/2004)

A licence application concerning a project referred to in the Act on the Environmental Impact Assessment Procedure (468/1994) shall be accompanied by an assessment report conforming to the Act.

It must appear from the licence decision how the assessment under the Act on the Environmental Impact Assessment Procedure has been taken into consideration.

Section 20 – *Provisions on the role of municipalities* (1172/2004)

If a power line with a rated voltage of 110 kilovolts or above is built outside the area reserved for it within physical planning, or if no such area reservation exists in the physical plans, the consent of the municipality concerned shall be obtained for the course to be followed. However, the consent shall not be refused, nor shall conditions be set for its granting, without valid reasons based on the planned use of areas, on environmental considerations or on other aspects, if the refusal or the conditions would unreasonably impair the security of electricity transmission or unreasonably inconvenience the applicant. (138/1999)

The distribution system operator shall ensure that the municipalities are kept informed about any plans for distribution system construction. In other respects, too, the distribution system operator and the municipalities within the operator's area of responsibility shall see to it that sufficient cooperation exists to ensure that the various aspects of the municipalities' land use are taken into account in locating the system.

Chapter 6 - **Sale of electricity** (466/1999)

Section 21 – *Obligation to deliver* (1172/2004)

An electricity retailer in a major market position within the area of responsibility of a distribution system operator shall deliver electricity at reasonable prices to consumers and other users of electricity whose place of use is equipped with main fuses of 3 x 63 amperes at maximum or whose place of electricity use receives annually no more than 100,000 kWh of electricity (*obligation to deliver*).

If an electricity retailer referred to in subsection 1 above does not exist, the obligations of an electricity retailer in a major market position shall be applied to an electricity retailer whose market share, measured by the quantity of the electricity delivered, in the case of users of electricity within the obligation to deliver is the highest in the area of responsibility concerned.

An electricity retailer in a major market position shall have terms of retail sale and prices, and the criteria underlying these, that are publicly available to consumers and to the customers encompassed by the retailer's obligation to deliver. They shall not include any unreasonable conditions or limitations that would restrict competition within electricity trade.

The electricity market authority may order the retailer referred to in this section to deliver electricity on the conditions referred to in subsection 3 to the customers within the obligation to deliver.

Section 22 – Notification of the retailer’s terms of sale to the electricity market authority (1172/2004)

An electricity retailer in a major market position shall deliver the terms of retail sale and prices and the criteria underlying these, as referred to in section 21(3), to the electricity market authority prior to their introduction.

An electricity retailer shall notify the electricity market authority or a body specified by it of the terms of retail sale and prices of electricity that the retailer in general applies when supplying electricity to consumers and other users of electricity whose place of use is equipped with main fuses of 3 x 63 amperes at maximum or whose place of electricity use receives annually no more than 100,000 kWh of electricity.

The electricity market authority may issue further regulations on what information related to the terms of retail sale and prices and pricing criteria should be delivered to it, how the information should be itemised and how the information should be delivered.

Section 23 – Information to be given in the electricity vendor’s bill and publication of the economic indicators of the electricity vendor (1172/2004)

In invoicing, the electricity vendor shall give its customer an itemised account of how the price of electricity is formed. The electricity market authority may issue further provisions on what information should be included in the bill for electric energy.

The retailers shall supply the general public with information concerning the average electricity price level applied. The electricity market authority may issue regulations on the procedure to be followed in the publication.

Section 24 (444/2003)

Sale of electricity via an internal electricity system of a real estate (1172/2004)

The holder of a real estate shall arrange the metering of the electricity supplied in an appropriate manner as provided in more detail by Government decree, if the electricity is sold to the users of electricity through the internal electricity system of the real estate or a group of real estates corresponding to it.

Chapter 6 a - Provisions concerning electricity market contracts (466/1999)

Section 25 - Scope and definitions for this chapter (466/1999)

The provisions of this chapter shall apply to the service contract, to the electricity system contract and to the electricity sale contract.

For the purposes of this chapter:

- (1) *service contract* means a contract concluded between the distribution system operator and the owner or holder of the place of electricity use (*connecting party*) on the linking of the place of electricity use to the distribution system referred to in section 9; if the service contract is transferred, the provisions on the connecting party shall apply to the transferee;
- (2) *electricity system contract* means a contract concluded between the distribution system operator and a user of electricity concerning electricity transmission through the distribution system and other related system services; and

(3) *electricity sale contract* means a contract concluded between a retailer and a user of electricity concerning the supply of electricity to the user.

The provisions of this chapter are applied to contracts referred to above under paragraphs 2 and 3 of subsection 2 only if the user of electricity who is party to the contract buys electricity from the retailer principally for his own use.

The provisions on the retailer under this chapter shall also be applied to an electricity vendor that sells electricity to users of electricity through the electricity system of the real estate or an electricity system inside a group of real estates corresponding to it. (444/2003)

Section 25 a - *Peremptory provisions* (466/1999)

No exceptions to the provisions of this chapter may be made by agreement to the detriment of the consumer.

Unless otherwise provided below, the provisions in this chapter are applied only if there are no other provisions to the contrary derived from a contract, from a practice adopted by the contracting parties, from commercial practice or from some other custom that is deemed to be binding on the contracting parties.

Section 25 b – *Supervision* (466/1999)

In view of consumer protection, the Consumer Ombudsman supervises the legality of the terms of the contracts referred to in this chapter.

Section 25 c -*Information to be supplied before concluding a contract* (1172/2004)

Before concluding a service contract or an electricity system contract, the distribution system operator shall provide the connecting party or the user of electricity, respectively, with information on the principal conditions to be applied to the contract and on the alternatives available with respect to the contents of the contract, such as various pricing alternatives. Before concluding an electricity sale contract, a retailer must give the corresponding information to the user of electricity.

The connecting party and the user of electricity shall be provided with at least the following data:

- (1) name and contact information of the service provider;
- (2) the performance or service offered and its quality, as well as the period of delivery of the connection in the case of a service contract;
- (3) possible upkeep services related to contract-based performance or service;
- (4) methods by which the connecting party or user of electricity receives information on the charges applied to the contract or the related upkeep services;
- (5) period of validity of the contract and the conditions to be applied to renewal and termination of the contract;
- (6) compensations of damage and other compensations to be applied if the quality of the performance or service does not correspond to the standard agreed upon;
- (7) information on the available procedures of settling disputes and their institution.

No information on an electricity system contract or on an electricity sale contract needs be given if the contract is concluded orally and the user of electricity does not want this information.

The information referred to in subsection 2 above shall be entered in its agreed form in the contract or confirmation notification.

Section 25 d - *Concluding a contract* (466/1999)

Service contracts must be concluded in writing. The distribution system operator may not appeal to a condition that has not been entered in the service contract or that has not otherwise been agreed upon in writing.

Electricity system contracts and electricity sale contracts shall be drawn up in writing if a contracting party so requires.

A user of electricity encompassed by the obligation to deliver shall have the opportunity to agree with the retailer that the contract includes not only electricity sale but also the system service required by electricity transmission.

A user of electricity shall have the possibility of concluding an electricity system contract or an electricity sale contract in which the supply of electricity takes place through the distribution system of the distribution system operator. For this purpose, the holder of the real estate shall surrender the user of electricity the right to the electricity system of the real estate or to a corresponding electricity system inside a group of real estates. If the user of electricity has purchased his electricity through the system of the real estate or a corresponding electricity system inside a group of real estates, he shall pay back the costs arising from the changes related to the metering of electricity to the holder of the real estate when moving over to purchasing his electricity through the distribution system of a distribution system operator. (444/2003)

Section 25 e – *Confirmation notification* (466/1999)

If the electricity system contract has not been concluded in writing, the distribution system operator must provide the user of electricity with information on the contract and on the prices and other terms applied to the contract (*confirmation*). A retailer must provide the user of electricity with a corresponding confirmation if the electricity sale contract has not been concluded in writing. The confirmation must be sent without delay and not later than two weeks after the contract has been concluded.

A contract is considered to have been concluded on the conditions specified in the confirmation, unless the user of electricity notifies the other contracting party that he does not deem the confirmation to correspond with the contract. This notification must be given within the period specified in the confirmation, and this period must be at least three weeks from the dispatch date of the confirmation.

During the period between the conclusion of the contract and the notification given by the user of electricity, the contractual terms specified in the confirmation shall be complied with, unless it is demonstrated that some other agreement has been made.

Section 25 f - *Validity and expiry of contract (466/1999)*

A service contract, an electricity system contract and an electricity sale contract may be concluded for an indefinite period or for a fixed term.

A contract that is valid indefinitely expires when it is revoked or terminated. A contract that is valid for a fixed term expires at the end of the term. If the connecting party or the user of electricity is a consumer, he may also terminate a fixed-term contract in the same way as a contract that is valid indefinitely. However, this does not apply to an electricity sale contract that is outside the obligation to deliver.

An electricity system contract and an electricity sale contract that are valid indefinitely expire automatically when the service contract concerning the place of electricity use expires.

Section 25 g - *Terminating a service contract (466/1999)*

A distribution system operator may not terminate a service contract. A connecting party may not terminate the service contract if an electricity system contract or an electricity sale contract concluded by some other user of electricity with respect to the same place of electricity use is valid.

The notice period for terminating a service contract may not be longer than one month.

No exceptions to the provisions of this section may be made by agreement.

Section 25 h - *Terminating an electricity system contract (466/1999)*

A distribution system operator may not terminate a consumer's electricity system contract. The distribution system operator may terminate some other electricity system contract only if a legislative amendment or an essential change in the circumstances makes it unreasonable for it to keep the contract in force.

The notice period for terminating an electricity system contract is two weeks for the user of electricity and three months for the distribution system operator.

No exceptions to the provisions of this section may be made to the detriment of the user of electricity.

Section 25 i - *Terminating an electricity sale contract (466/1999)*

A retailer may not terminate an electricity sale contract when the user of electricity encompassed by the obligation to deliver is a consumer. A retailer may terminate some other electricity sale contract encompassed by the obligation to deliver only if a legislative amendment or an essential change in the circumstances makes it unreasonable for it to keep the contract in force.

The notice period for terminating an electricity sale contract is two weeks for the user of electricity and three months for the retailer. The notice period for terminating a contract outside the obligation to deliver is two weeks for the retailer.

If a fixed-term electricity sale contract has been concluded outside the obligation to deliver with a consumer for a period longer than two years, the consumer may terminate the contract after the period of two years in the same way as he may terminate a contract that is valid indefinitely.

No exceptions to the provisions in subsections 1 and 2 of this section may be made to the detriment of a user of electricity encompassed by the obligation to deliver.

Section 26 – *Amending the terms of contract* (466/1999)

The distribution system operator may change the prices and other terms of the service contract and the electricity system contract, and a retailer may change the prices and other terms of the electricity sale contract in the following cases only:

- (1) on the grounds specified in the contract, provided that the content of the contract does not change materially; however, a retailer may not on these grounds change a fixed-term electricity sale contract concluded outside the obligation to deliver;
- (2) if the change is based on an amendment to legislation, or on a decision made by the authorities, which the distribution system operator or the retailer has not been able to take into account when concluding the contract; or
- (3) if there is a special reason for the change, owing to an essential change in the circumstances, revision of outdated contractual or pricing arrangements, or implementation of measures necessary for energy conservation; however, a retailer may not on these grounds change a contract concluded outside the obligation to deliver.

In addition, the distribution system operator and the retailer are entitled to make minor amendments to the contractual terms, provided that these amendments do not affect the principal content of the contract.

If the distribution system operator's area of responsibility changes, the distribution system operator is entitled to change the price of transmission services in order to implement the uniform pricing laid down in section 15(3). Price changes causing considerable changes in the fees of individual customers shall be carried out during the transition period approved by the electricity market authority before the introduction of the new pricing. (1172/2004)

The distribution system operator and the retailer shall provide their contracting party with information on how the prices or other contractual terms will change, when the change will come into effect, and what the grounds for the change are. The contracting party must be informed whether he has the right to terminate the contract. If the reason for the change is not a legislative amendment or a decision by the authorities, the change may come into effect, at the earliest, one month after the notification of the change has been given.

Section 27 - *The right to withhold payment* (466/1999)

If, owing to a delay attributable to the distribution system operator, the connection has not been made at the time when the connection fee, or a part thereof, falls due for payment under the contract, the connecting party has the right to withhold payment until the connection has been made. After the connection has been made, the connecting party has the right to withhold such part of the fee as is needed to serve as security for a claim for compensation based on the delay.

If, owing to a delay attributable to the retailer, the supply of electricity has not commenced on the day agreed upon, the user of electricity is required to pay the fees determined in the contract only as of the day when the supply of electricity is commenced. After the supply of electricity has commenced, the user of electricity has the right to withhold such part of the fee as is needed to serve as security for a claim for compensation based on the delay.

Section 27 a - Standard compensation upon delay in connection (466/1999)

If the connection is delayed, the connecting party is entitled to a standard compensation. For each beginning week during the first two weeks of delay, the compensation is 5 per cent of the connection fee. Thereafter, the compensation is 10 per cent of the connection week for each beginning week of delay. The maximum sum of the standard compensation is 30 per cent of the connection fee. It is; however, 1,700 euros at maximum. The maximum amount of the standard compensation may be revised by Government decree to adjust it to the change in the value of money. The calculation of a standard compensation is based on the fees collected generally by the distribution system operation for connection, excluding any increments caused by special circumstances. (1172/2004)

Notwithstanding the provisions in this section, the connecting party is, by virtue of section 27 b, entitled to receive compensation exceeding the standard compensation for the damage incurred.

If performance of the distribution system operator's obligations is prevented by an obstacle referred to in section 27 b(1, 2), the distribution system operator is not required to pay standard compensation.

Section 27 b - Compensation for delay (466/1999)

The connecting party and the user of electricity are entitled to receive compensation for damage suffered because of delay, unless the distribution system operator or retailer that is party to the contract can show that the delay is caused by an obstacle that is beyond its control and that it cannot reasonably be expected to have taken into account when concluding the contract and that has had consequences which it could not have reasonably avoided or overcome.

If the delay is caused by a person who the distribution system operator or the retailer has used as help in fulfilling the contract, the distribution system operator or the retailer is released from its obligation to pay compensation only if the said person would also be released from liability by virtue of subsection 1.

The distribution system operator or retailer is required to compensate for indirect damage only if the delay or damage is caused by negligence on its part. Indirect damage refers to the following:

- (1) loss of earnings incurred by the connecting party or the user of electricity because of the delay or the consequent actions;
- (2) damage that is caused by an obligation based on some other agreement;
- (3) essential loss of operational utility in the place of electricity use, when this loss does not result in direct economic damage, and other comparable major inconvenience; and
- (4) other similar damage that is hard to foresee.

Section 27 c – *Fault* (466/1999)

Any supply of electricity is faulty, if the quality of electricity or the method of supply does not correspond to what can be considered to be agreed upon. Unless otherwise agreed, the supply of electricity is faulty, if the quality of the electricity does not correspond to the standards adhered to in Finland or if there have been continuous or repeated interruptions in the supply of electricity, and these interruptions cannot be considered minor when taking into account their reason and circumstances.

Section 27 d (466/1999)

Price reduction because of fault (444/2003)

On the basis of a fault, the user of electricity is entitled to a price reduction proportionate to the fault. If the fault is based on interruption of electricity supply, the price reduction shall be at least the sum that corresponds to two weeks' share of the annual system service fee.

Section 27 e - *Compensation because of fault* (466/1999)

The user of electricity is entitled to compensation for damage suffered because of a fault. The retailer or distribution system operator referred to below in section 27 f is then required to compensate for the indirect damage referred to in section 27 b(3) only if the fault or damage is caused by negligence on its part.

Section 27 f – *Standard compensation for interruption of system service* (444/2003)

The user of electricity is entitled to standard compensation for continuous interruption of system service, if the distribution system operator or retailer that sells electricity to users of electricity through an internal electricity system of a real estate or a corresponding group of real estates does not demonstrate that the interruption of the system service is the result of an obstacle beyond its possibilities of influence and that cannot reasonably be expected to be taken into account in its operations and whose consequences it could not have avoided or overcome by exercising due diligence.

The amount of the standard compensation of the annual system service fee of the user of electricity is:

- (1) 10 per cent, when the interruption time has been at least 12 hours, but less than 24 hours;
- (2) 25 per cent, when the interruption time has been at least 24 hours, but less than 72 hours;
- (3) 50 per cent, when the interruption time has been at least 72 hours, but less than 120 hours; and
- (4) 100 per cent, when the interruption time has been at least 120 hours.

The maximum amount of the standard compensation because of interruption is, however, 700 euros per user of electricity. The maximum amount of the standard compensation can be adjusted by Government decree to the change in the value of money.

If an user of electricity is paid the standard compensation referred to in subsection 2 because of interruption, he is not entitled to a price reduction subject to section 27 d because of the same interruption.

No exceptions to the provisions of this section may be made by agreement to the detriment to the user of electricity.

Section 27 g - Responsible bodies (444/2003)

The user of electricity is always entitled to present his claims based on a fault or an interruption of system service referred to in section 27 f to the distribution system operator. The claims must be presented within a reasonable period after the user of electricity has noticed, or should have noticed, the fault or interruption of system service and has had the information on the distribution system operator needed for presenting the claims.

The distribution system operator is responsible for faults to consumers, unless the distribution system operator, within a reasonable period after having been informed of the claim, informs the consumer of a retailer that is responsible for the fault and assumes liability for the compensation or price reduction derived from the fault.

The distribution system operator and retailer that supply the electricity through the internal electricity system of a real estate or a corresponding group of real estates shall be responsible to the user of electricity for the interruption of system service referred to in section 27 f. In addition, the distribution system operator shall also be responsible for interruption of system service in its system to the user of electricity that purchases the electricity through an internal electricity system of a real estate or a corresponding group of real estates that have been connected to its distribution system, unless the distribution system operator, within a reasonable period after having been informed of the claim, informs the user of electricity of a retailer that assumes liability for the standard compensation based on the interruption of system service.

Section 27 h - Interrupting electricity supply for a reason attributable to the retailer (466/1999)

The distribution system operator may not interrupt electricity supply for a reason attributable to the retailer until the distribution system operator has notified the user of electricity of the interruption of electricity supply and of the reason for this. The distribution system operator shall see to it that the consumer is supplied with electricity for at least three weeks after the dispatch of the notification.

The distribution system operator may not interrupt electricity supply to a user of electricity encompassed by the obligation to deliver until the electricity market authority has designated a new retailer by virtue of section 21.

The user of electricity must compensate the distribution system operator for any reasonable costs caused by the supply of electricity referred to in this section. If the user of electricity and the distribution system operator cannot agree on the compensation, the electricity market authority shall determine the amount of the compensation.

Section 27 i - Interrupting electricity supply for a reason attributable to the user of electricity (466/1999)

The supply of electricity can be interrupted if the user of electricity has materially defaulted on the payments to be made to the retailer or to the distribution system operator, or has otherwise materially infringed against the obligations based on the contract. Before interrupting the supply of electricity, the user of electricity must be sent a written notification of

the default on payment or of the breach of contract, and a separate warning of cutting the supply of electricity, which is sent at the earliest two weeks after sending the notification. The supply of electricity may be cut at the earliest five weeks after the payment has fallen due or after the user of electricity has been informed of some other breach of contract for the first time, and the breach of contract has not been rectified in time before cutting the supply of electricity.

If the default on payment is caused by the user's financial difficulties that he has run into because of serious illness, unemployment or some other special cause, principally through no fault of his own, the supply of electricity may be cut at the earliest two months after the due date of the payment.

The supply of electricity may not be cut, because of default on payment, between the beginning of October and the end of April in a building or in a part of a building that is used as a permanent residence, if the building is heated by means of electricity, until four months have elapsed since the due date of the outstanding payment.

Section 27 j - Terminating a service contract (466/1999)

The distribution system operator is entitled to terminate the service contract if the connecting party has materially violated the obligations based on the service contract, and the breach of contract has not been rectified within a reasonable period specified in writing by the distribution system operator.

The distribution system operator shall send the contracting party a written notification of the termination of contract, specifying the grounds for the termination and the date when the contract expires.

Section 27 k - The distribution system operator's right to terminate the electricity system contract and the retailer's right to terminate the electricity sale contract (444/2003)

The distribution system operator has the right to terminate the electricity system contract and the retailer has the right to terminate the electricity sale contract if:

- (1) the user of electricity has materially violated the obligations based on the respective contract, and this breach of contract has not been rectified within a reasonable period specified in writing by the distribution system operator or the retailer; or
- (2) the supply of electricity to the place of use referred to in the contract has been cut on the grounds laid down in section 27 i(1), and this power cut has continued for at least one month.

An electricity system contract and an electricity sale contract may be terminated on the basis of a consumer's delay in payment only in the case mentioned in paragraph 2 of subsection 1.

Notwithstanding the provisions in subsection 1, an electricity system contract and an electricity sale contract may be terminated immediately, if the user of electricity is guilty of stealing electricity, of wilfully damaging the equipment under the vendor's or the distribution system operator's responsibility, or of breaking the seals placed by the vendor.

The distribution system operator or the retailer must send a written notification on the termination of the contract to the contracting party. This notification shall state the grounds for termination and the date when the contract will expire.

No exceptions to the provisions in subsection 1 of this section may be made to the detriment of a user of electricity encompassed by the obligation to deliver.

Chapter 7 - **Unbundling of operations** (1172/2004)

Section 28 – *Obligation to unbundle operations* (1172/2004)

A utility operating on the electricity market shall unbundle any electricity system operations from other electricity trade operations and the electricity trade operations from its other trade operations.

The system operator shall unbundle the following sub-operations of electricity system operations from each other:

- (1) grid operations and distribution system operations; and
- (2) distribution system operations carried out in parts of the area of responsibility that are geographically separate from each other, if the prices of own transmission services referred to in section 15(3) are applied in these parts.

Electricity trade operations need not, however, be unbundled from each other nor from other trade operations if the trade operations are of minor significance in terms of volume or the other trade operations carried out by the utility. Further provisions as to when the operations are of minor significance may be given by ministerial decree.

Section 29 – *Contents of the obligation to unbundle* (1172/2004)

In this Act, 'unbundling' means that an income statement and a balance sheet shall be drawn up for any electricity trade operations to be unbundled for each financial period. The income statement and the balance sheet, which shall be derivable from the utilities' accounts, shall be drawn up, *mutatis mutandis*, in accordance with the provisions of the Accounting Act (1336/1997).

Section 30 – *Unbundling a municipal establishment* (1172/2004)

The electricity trade accounting of a municipal establishment engaged in electricity trade shall be unbundled from the municipality's other accounting and from the accounting of the municipality's other establishments for each financial period. An income statement and a balance sheet of its own shall be drawn up for the establishment.

Section 31 - *Auditing unbundled financial statements* (1172/2004)

The auditors of the body engaged in electricity trade and of a municipality or a state enterprise shall audit the income statements, balance sheets and any supplementary information as part of the statutory auditing of a body, municipality or an establishment.

Section 32 – *Publicising unbundled financial statements (1172/2004)*

The unbundled financial statements of electricity trade operations shall be made public. The financial statements shall be attached to the official financial statements, annual report published or a corresponding other public document made available to the stakeholders of a utility or group engaged in electricity trade or of a municipality, joint municipal authority or state enterprise.

Section 33 – *Drawing up unbundled financial statements (1172/2004)*

Transactions and balance sheet items shall be entered in income statements and balance sheets according to the matching principle. Joint income and expenditure shall be numerically entered in connection with drawing up the financial statements for different functions, so that the matching principle is followed as far as possible.

In unbundled financial statements, depreciations shall be based on replacement expenditure. Upon drawing up unbundled financial statements for the first time, fixed assets replacement expenditure shall be included in them, deducted by depreciations according to plan.

The unbundling procedure chosen shall be continuously followed, unless there is a justified reason for changing it. An account shall be made of any changes made in connection with the financial statements.

Section 34 – *Supplementary provisions on unbundling (1172/2004)*

Further provisions may be given by ministerial decree:

- (1) on the criteria according to which receipts and expenditure and balance sheet items shall be entered for different transactions;
- (2) on the criteria according to which the receipts and expenditure and balance sheet items concerning a single electricity transaction shall be entered;
- (3) on the entering of joint receipts and expenditure and balance sheet items for different transactions;
- (4) on the formula of unbundled income statements and balance sheets and of the system operator's income statement and balance sheet;
- (5) on the additional information to be included in unbundled financial statements and the system operator's financial statements;
- (6) on the delivery of unbundled financial statements and the system operator's financial statements to the electricity market authority.

In connection with unbundled financial statements, information on the criteria of drawing up financial statements and economic indicators depicting the system operator's operations shall be made public. The electricity market authority may issue further regulations on what information and indicators the obligation to publish concerns and how the information and indicators are to be made public.

The electricity market authority may, in individual cases and for valid reasons, grant exemptions from the procedure to be applied under this Act to unbundling of operations, if its application according to the requirements of the Act is deemed unreasonable.

Section 34 a – *Legally unbundled electricity system operation (1172/2004)*

If the grid operator or other system operator in whose 400 V electricity system the annually transmitted quantity of electricity has been 200 gigawatt hours or more during the last three calendar years operates as part of a utility engaged in electricity generation or electricity sale or of a group of utilities under the same party's authority, the system operator shall be independent in terms of its legal form, organisation and decision-making of the electricity generation and electricity sale operators of the utility or group of utilities (*legally unbundled electricity system operation*).

'Authority' means in subsection 1 above rights, contracts or other means that either separately or together allow the party to exercise decisive authority in the utility and in its bodies, taking the relevant real and legal conditions into account.

A change in the corporate structure concerning legally unbundled electricity system operation shall be implemented within two years from the end of the calendar year during which the threshold value referred to in subsection 1 has been reached.

Section 34 b – *The right of a legally unbundled system operator to engage in electricity supply and sales (1172/2004)*

A system operator practising legally unbundled electricity system operation may be engaged in energy supply and sales, if the purpose of the operation is:

- (1) supply of the loss energy from an electricity system;
- (2) tending to the duties under the systems responsibility;
- (3) managing transmission restrictions;
- (4) operating movable reserve power machinery for the construction, operation and maintenance of a system and selling electricity generated by this machinery for a system;
- (5) to supply internal consumption electricity for the premises, electric stations or link stations of a body or for other corresponding objects of the body;
- (6) by virtue of the responsibility under this Act, delivery of electricity by the distribution system operator to the user of electricity in a situation where the delivery of a retail vendor has been interrupted for a reason attributable to the vendor.

Section 34 c – *Operative unbundling requirements (1172/2004)*

A person managing a system operator engaged in legally unbundled electricity system operation with 50,000 customers or more may not act as the managing director of a utility in charge of electricity generation or electricity sale or as a member of its board of directors or a corresponding organ, if the system operator and the utility are under the authority of the same party.

Further provisions on the operative unbundling requirements imposed on a system operator with 100,000 customers or more and engaged in legally unbundled electricity system operation may be given by ministerial decree. These requirements can relate to:

- (1) decision-making on the prerequisites pertaining to ensuring the independence of the persons managing the system operator; and
- (2) the system operator's obligation to draw up a scheme of measures ensuring that the system operator meets its obligations referred to in chapters 3 and 4 of this Act in a

non-discriminatory manner.

Chapter 8 – **Generation, import and export of electricity** (1172/2004)

Section 35 – *Invitation to tender for new electricity generation capacity* (1172/2004)

The government may decide on the organisation of a public invitation to tender for new electricity generation capacity or demand-side actions in order to secure the energy supply. The decision may be made only in the case that the energy supply is not enough to meet the electricity demand in Finland, considering the electricity generation establishments planned or under construction, transmission connections and the implemented demand-side measures, and the sufficiency of electricity cannot be secured by other measures.

The decision on the organisation of an invitation to tender specifies that:

- (1) the information to be included in the invitation to tender on the required contractual terms and the procedures that the tenders shall follow; and
- (2) the criteria on the selection of the tenderers and conclusion of a contract.

The decision on the organisation of an invitation to tender is taken in the government plenary session. The Ministry makes the decision on the approval of the tender. The implementation of the invitation to tender is also on the Ministry's responsibility.

Further provisions on the procedure to be followed in the invitation to tender are given by Government decree.

Section 36 – *Notifications of the construction and decommissioning of power plants* (1172/2004)

A power plant operator shall notify the electricity market authority of a plan for constructing a power plant, of commissioning of a power plant and of long-term or permanent decommissioning of a power plant. Further provisions on the contents of the notification obligation and notification procedure are given by Government decree.

Section 36 a – *Overhaul outages of power plants* (1172/2004)

A power plant operator shall notify the electricity market authority of a planned overhaul outage of its power plant practising separate electricity generation, with an output of 100 mega-volt-amperes, which would take place between 1 December and 28 February. The notification shall be made at least six months before the planned starting date of the overhaul outage. Further provisions on the information to be included in the notification and the notification procedure are given by Government decree.

The electricity market authority may order that the date of an overhaul outage of a power plant referred to in subsection 1 above be rescheduled outside the period 1 December–28 February, if it is justified to suspect that the electricity supply would not be enough to meet the electricity demand in Finland during the notified date of the overhaul outage. The decision on the rescheduling of overhaul outages shall be made at least three months before the notified starting date of the overhaul outage. The decision on the rescheduling must not be made, if the rescheduling of the overhaul outage created a risk of a technical default at the power plant or if it jeopardised the operational safety of the power plant. The electricity market authority shall consult the Safety Technology Authority (Tukes) and, if the overhaul outage concerns a

nuclear power plant, the Radiation and Nuclear Safety Authority (STUK), before making the rescheduling decision. The decision on the rescheduling shall be observed despite an appeal, unless the court of appeal has prohibited implementation of the decision or ordered it to be suspended.

The electricity market authority may reinforce its decision referred to in subsection 2 above by a conditional imposition of a fine.

Section 37 – *Obligation to notify import and export of electricity (1172/2004)*

It may be laid down by ministerial decree that any contracts on import and export of electricity shall be notified to the Ministry. The notification shall specify the kind of information to be supplied in the decree.

Chapter 9 - **Guidance and supervision**

Section 38 – *Surveillance authorities and their duties (1172/2004)*

The general guidance and supervision of the implementation of this Act is vested with the Ministry.

The task of the electricity market authority is to supervise that the provisions of this Act and any rules and regulations issued under it, as well as Regulation (EC) No 1228/2003 of the European Parliament and of the Council on conditions for access to the system for cross-border exchanges in electricity are complied with. However, the construction of cross-border power lines, and the import and export of electricity are supervised by the Ministry.

In cooperation with other authorities, the electricity market authority annually monitors the development of the balance between supply of and demand for electricity in Finland.

The electricity market authority shall annually give out reports on the supervision and development of the balance between the supply of and demand for electricity, as well as meet the international information dissemination obligations related to its duties.

Section 38 a – *Conditions and methods confirmed by the electricity market authority (1172/2004)*

By its decision, the electricity market authority shall confirm the following terms of services and methods of pricing services before their take-up to be complied with by the system operator and the grid operator under the systems responsibility:

- (1) methods to determine the system operator's return on its system operations and the fees charged for the transmission service during the surveillance period;
- (2) terms of the system operator's transmission service;
- (3) terms and methods of the system operator's connection service to determine the fees charged from the connection;
- (4) terms of the services under the systems responsibility of the grid operator subjected to the systems responsibility and methods to determine the fees charged from the services.

The confirmation decision shall be based on the criteria laid down in chapters 3, 4 and 6 a and in Regulation (EC) No 1228/2003 of the European Parliament and of the Council on conditions for access to the network for cross-border exchanges in electricity. The decision confirming the pricing methods can order on the following:

- (1) valuation principles of capital bound to system operations;
- (2) method of determining the approved return on the capital bound to system operations;
- (3) methods of determining the result of the system operations and the correction of the income statement and balance sheet required by them;
- (4) target encouraging improvement of the efficiency of the system operations and the method of determining it, as well as a the method to apply the target in pricing;
- (5) the method of determining the pricing structure, if the method of determination is necessary for providing access to the system or to implement an international obligation binding on Finland or if the method of determination is related to pricing of services under the systems responsibility.

The confirmation decision, which is applied to the methods referred to in subsection 1(1), is valid during a four-year surveillance period. If the system operator has started its operations while the surveillance period applied to other system operators has not yet run out, the confirmation decision referred to in paragraph 1 of subsection 1 is, however, valid until the end of this surveillance period. The other decisions referred to in subsection 1 remain in force until further notice or, for a special reason, during the period laid down in the decision.

Section 38 b – Amending the confirmation decision by the electricity market authority (1172/2004)

The electricity market authority may amend the confirmation decision referred to in subsection 1 of section 38 a by a new decision whose handling has been instigated upon the application of the system operator or the grid operator under the systems responsibility or at the electricity market authority's own initiative. The decision may be amended at the initiative of the electricity market authority:

- (1) if the object of the decision has given incorrect or deficient information that has influenced the contents of the information;
- (2) if the amendment is based on amended legislation or a judgment by the court of appeal;
- (3) if there is a valid reason for the amendment owing to an essential change in the circumstances occurred after making the decision, or outdated terms, or revision of the pricing arrangements; or
- (4) if the amendment is needed to implement an international obligation binding on Finland.

Section 38 c – Decision by the electricity market authority after the end of the surveillance period (1172/2004)

After the end of the surveillance period referred to in section 38 a, the electricity market authority shall by its decision oblige the system operator to reduce its transmission service fees determined on the basis of the methods referred to in paragraph 1 of section 38 a(1) during the on-going surveillance period by the amount by which the return on the system operation has exceeded the reasonable return during the surveillance period that has ended,

or entitle the system operator to raise its transmission service fees during the on-going surveillance period by the amount that the return on the system operation has during the surveillance period that has ended remained below the reasonable return. If the return on the system operation has exceeded the reasonable return during the surveillance period by at least 5 per cent, an interest, which shall be calculated for the total amount to be reduced as annual interest from the surveillance period that has ended according to the average of the equity interest determined in compliance with the confirmation decision referred to in paragraph 1 of section 38 a(1), shall be added to the amount to be reduced.

For a valid reason, the electricity market authority may prolong the equalising period referred to in subsection 1 above.

Section 38 d – Transfer of electricity system trade and merging of system operators during a surveillance period that has not yet run out (1172/2004)

If the system operator transfers the electricity system operation to another party or merges with another operator, when the surveillance period referred to in paragraph 1 of section 38 a(1) has not yet run out, the confirmation decision on the system operation transferred to another party as a result of a transfer or a merger shall be applied to the transferee or the receiving body during the rest of the surveillance period. The transferee or the receiving body shall be responsible for the refund of the transmission service fees under section 38 c to the customers of the transferring or merging system operator also in the case where the refund is based on the part of the surveillance period preceding the transfer or merger. Correspondingly, the transferee or the receiving body shall obtain the right to raise the transmission service fees referred to in section 38 c also insofar as the right is based on the operation of the transferor or the merging system operator during the part of the surveillance period that precedes the transfer or merger.

At the request of the transferor and the transferee, the electricity market authority shall take a separate decision confirming the amount referred to in subsection 1 on the date of the transfer.

Section 39 – Authority of the surveillance authorities in matters of supervision (1172/2004)

Where anyone infringes against or neglects his obligations laid down in this Act or any provisions issued under it, or in Regulation (EC) No 1228/2003 of the European Parliament and of the Council on conditions for access to the system for cross-border exchanges in electricity, the surveillance authority shall oblige him to correct his mistake or omission. It may be ordered in the obliging decision how the mistake or omission should be mended. The obliging decision may also order a refund to a customer of a fee incorrectly charged from him, if the refund procedure under section 38 c is not applied to the refund.

The surveillance authority may impose a conditional fine to make a decision referred to in subsection 1 and in sections 38 a–38 c above effective. The procedure provided in the Act on Conditional Fine (1113/1990) shall be applied when imposing a conditional fine or ordering it to be paid.

Further provisions on the implementation of the obligation to provide the surveillance authority with information will be laid down below.

Section 39 a – Special provisions on the handling of the requests of inquiry made to the electricity market authority (1172/2004)

The electricity market authority shall handle the requests of inquiry concerning system operators within two months from the receipt of the request of inquiry. The electricity market authority may prolong the handling time set, if the request of inquiry pertains to the fees charged from the connection of power plant with an output of 40 mega-volt-amperes or more or if the handling of the request of inquiry requires acquisition of further information. In the latter case the handling time may be prolonged by two months at maximum, after which the handling time may be further prolonged with the consent of the petitioner.

Section 40 – Stopping the construction of an electricity system without a licence (1172/2004)

Apart from cross-border power lines, the electricity market authority is entitled to stop the construction of an electricity system or to ban its use, if the construction work has already commenced or if the electricity system was constructed without a licence or right conforming to this Act.

The Ministry is entitled to stop the construction of a cross-border power line or to ban its use if the construction work has already commenced or the power line was constructed without a licence conforming to this Act. (1172/2004)

Section 41 – Relationship of this Act with regard to competition law (1172/2004)

If a matter to be handled by the electricity market authority pertains to a procedure which may constitute an infringement of such provisions of the Act on Competition Restrictions (480/1992) that deal with restrictions on competition, the electricity market authority may cause the matter, insofar as restrictions on competition are concerned, to be dealt with under the said Act.

When assessing restrictions on competition and their adverse effects in the electricity market, the provisions of and any rules and regulations issued under this Act shall be taken into consideration.

The Finnish Competition Authority shall publish annually a report on the application of the Act on Competition Restrictions (480/1992) in the electricity market. The report shall be submitted to the Commission of the European Communities in compliance with the international information dissemination obligations binding on Finland. (1172/2004)

Section 42 – Providing authorities with information (1172/2004)

A person, a body or an establishment engaged in electricity system operations, sale, generation, import or export of electricity shall provide the Ministry and the electricity market authority with any necessary statistical data and similar information for the appropriate performing of the tasks referred to in this Act or for the fulfilment of Finland's international commitments.

The official of the electricity market authority concerned has the right to perform an inspection in the premises occupied by a body or an establishment carrying out the activities supervised in order to carry out the surveillance duty under this Act and to supervise the compliance of the confirming or obliging decisions made by the electricity market authority. However, an

inspection may not be carried out in premises within the scope of domestic peace. A body or an establishment carrying out activities to be supervised shall, on demand, present the documents and files in its data systems to the official performing an inspection and provide access to the electrical apparatus and equipment that can have a meaning for the supervision of the compliance with the rules or regulations issued by virtue of this Act. The official performing the inspection has the right to take copies free of charge of the documents to be inspected as well printouts of the files in the data systems.

Where anyone infringes against or neglects his obligations on giving information or delivering it to the surveillance authority laid down in this Act or any provisions issued under it, the surveillance authority shall oblige him to correct his mistake or omission. The surveillance authority may impose a conditional fine to make its decision effective. The procedure provided in the Act on Conditional Fine (1113/1990) shall be applied when imposing a conditional fine or ordering it to be paid.

Section 43 – *Fees charged from the services of authorities* (1172/2004)

Fees are chargeable for any supervisory and other measures based on this Act, if performed by the Ministry or the electricity market authority. The Act on Criteria for Charges Payable to the State (150/1992) shall apply to these fees.

Chapter 10 - **Compensation of damages and penalties** (1172/2004)

Section 44 – *Liability to pay damage* (1172/2004)

Whoever causes damage to another through an act or omission in contravention of section 9(2) (*obligation to connect*), section 10(1) (*obligation to transmit*), section 21(1) 1 (*obligation to deliver*), or section 27 i (*interruption of electricity supply for a reason attributable to the user of electricity*), shall compensate for the damages thus caused.

Section 45 – *Carrying on unlawful electricity system operations* (1172/2004)

Anyone who carries on system operations either without the licence referred to in section 4 or who constructs a power line without the licence referred to in section 18, shall be sentenced to fines *for carrying on unlawful electricity system operations*, unless a more severe penalty be applicable to that act under some other laws.

Section 46 - *Offence in operating a power plant* (1172/2004)

Whoever

- (1) after failing to meet the notification obligation concerning a planned overhaul outage of a power plant organises an overhaul outage of a power plant under the notification obligation, or
- (2) violates the decision of the electricity market authority on postponing an overhaul outage,

shall be sentenced to fines *for an offence in operating a power plant*.

Section 47 – Offending against a secrecy obligation related to systems obligations (1172/2004)

The sanction for offending against the secrecy obligation laid down in section 16 e shall be sentenced by virtue of section 1 or 2 of chapter 38 of the Penal Code (39/1889).

Chapter 11 - Miscellaneous provisions

Section 48 – A municipality's right to engage in electricity trade outside its territory (1172/2004)

A municipality or municipally controlled body may engage in electricity generation, electricity system operations and sale of electricity even outside the territory of the municipality.

Section 49 (623/1999)

Section 49 has been repealed.

Section 50 – Executive assistance (1172/2004)

The police shall, where needed, provide executive assistance in matters pertaining to the supervision of this Act and any rules or regulations issued under it. Police authorities shall also, where needed, provide assistance in the execution of coercive measures under section 40.

Section 51 – Appeal (1172/2004)

Decisions taken by the electricity market authority under this Act shall be appealed to the Administrative Court as provided in the Administrative Judicial Procedure Act (586/1996), unless otherwise provided below.

Decisions taken by the electricity market authority under section 16(2), sections 38 a–38 d and 39 of this Act and article 7 of Regulation (EC) No 1228/2003 of the European Parliament and of the Council on conditions for access to the system for cross-border exchanges in electricity shall be appealed to the Market Court as provided in the Administrative Judicial Procedure Act (586/1996). The Administrative Judicial Procedure Act shall apply to the handling of appeals at the Market Court. Separate provisions are issued on the publicity of the handling and documents.

Decisions taken by the Ministry, the Administrative Court and the Market Court under this Act shall be appealed to the Supreme Administrative Court as provided in the Administrative Judicial Procedure Act (586/1996). The electricity market authority has the right to appeal a decision on a licence matter referred to in this Act taken by the Administrative Court and a decision by the Market Court referred to in subsection 2 above, by which the court of appeal has repealed the decision of the electricity market authority or amended it.

Section 52 – Special provisions on the enforceability of the decisions of the electricity market authority (1172/2004)

The decisions taken by the electricity market authority under sections 38 a–38 d and 39 of this Act shall be complied with despite an appeal, unless the electricity market authority otherwise provides in its decision. However, a decision on the refund to an individual customer of a fee

incorrectly charged or a decision ordering a conditional fine to be paid shall not be implemented before it has become legally valid. Furthermore, the court of appeal has the right to give orders on the implementation of decisions as provided in the Administrative Judicial Procedure Act (586/1996).

Section 53 – *Authority to issue decrees* (1172/2004)

Further provisions on the implementation of this Act are given by Government decree.

Chapter 12 - **Entry into force and transitional provisions**

Section 54 (1172/2004)

Section 54 has been repealed.

Section 55 – *Transitional provisions and entry into force* (1172/2004)

This Act enters into force on 1 June 1995.