



WATER AND WASTE REGULATORY OFFICE
ZYRA RREGULLATORE PËR UJË DHE MBETURINA
REGULATORNI URED ZA VODU I OTPAD

WATER AND WASTE REGULATORY OFFICE (“WWRO”)

(R-02/SW)

RULE
FOR SERVICE TARIFFS SETTING
FOR
WASTE COLLECTION AND WASTE DISPOSAL SERVICES IN KOSOVO

12 August 2008

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PART I: GENERAL PROVISIONS

Chapter 1: Authority, Scope, Purpose and Definitions

Section 1: Authority for this Rule

The Regulator issues this Rule under the authority of UNMIK Regulation No. 2004/49 *On the Activities of Water, Wastewater and Waste Services Providers*, dated 26 November 2004 as amended with the *Law NO. 3/L-086* approved on 13 June 2008.

Section 2: Scope

All Waste Collection Service Providers and Waste Disposal Service Providers in Kosovo shall follow this Rule for developing, obtaining approval, and requesting changes to Service Tariffs charged to Customers for the provision of Waste Collection Services and Waste Disposal Services.

Section 3: Purpose

The purpose of this Rule is to enable Service Tariffs for Waste Collection Services and Waste Disposal Services to be established in an economically sound manner taking into account the need to ensure the financial sustainability of the Waste Service Providers and the continuity of Waste Services to the level established in the Rule on Service Standards.

Section 4: Definitions

The terms and expressions used in this Rule shall bear the following meanings:

Accounts Receivable means a current asset representing moneys due to the Waste Service Providers for services rendered or performed or merchandise sold on credit;

Amortisation of grants means the negative depreciation of capital grants made by external donors, which should be shown as yearly income if depreciation of the grant-financed assets is claimed for tariff purposes;

Asset Management Plan means a written plan determining and justifying the need for specific projects and the capital expenditures and investments required to realise the projects and the time span over which such expenditures or investments are required to be made;

Business Day means any day other than Saturday, Sunday, or a public holiday in Kosovo;

Capital Costs means costs such as depreciation of fixed assets;

Capital Expenditure means expenditure incurred in connection with investments in fixed assets with a life in excess of one year, including without limitation expenditure that is accounted for to be amortised or depreciated over a life of any given fixed asset, classified as property, plant, or equipment;

Commercial/Industrial Customer means any person, legal entity, or business organisation classified by the Service Provider as a Customer using the Services for or in connection with the exercise of a commercial or industrial activity;

Communal Container means a container used and shared by one or more Customers to dispose of Municipal Solid Waste and which typically has a volume exceeding one thousand (1,000) litres;

Consolidation Plan means the Sector Restructuring Plan created by the Kosovo Trust Agency (“KTA”) for the consolidation and restructuring of Waste Service Providers dated 10 September 2002 as amended, supplemented or replaced from time to time by the KTA;

Cost Recovery means recovering through a Service Tariff the operating and maintenance costs of providing Waste Services, together with any capital expenditure plans of the Service Provider that have been approved by the Regulator;

Customer means a Person or entity that has entered into a Services Contract with a Waste Service Provider or has received such services from a Waste Service Provider;

Customer Charter means the written document prepared by the Waste Collection Service Provider and made known to each Customer that lists the rights and obligations of the Waste Collection Service Providers and Customers to each other;

Depreciation means the method of allocating the costs of capital expenditure over the economically useful life of any given fixed asset;

Economically Useful Life means the period of time expressed in years or parts thereof that a fixed asset can adequately and in an economically feasible manner fulfil its intended use;

Fixed Asset means an asset of a long-term nature which is required for the normal conduct of a business and which will not normally be converted into cash during the relevant fiscal period;

Hazardous Waste means by-products of society that can pose a substantial or potential hazard to human health or the environment when improperly managed. Substances classified as hazardous waste possess at least one of the four following characteristics: ignitability, corrosiveness, reactivity or toxicity, or have been classified as hazardous waste by the European Union;

Institutional Customer means any customer classified by a Waste Service Provider as a governmental authority, local authority, international organisation, or institution that carries out activities of common or public interest and that is not registered as a business organization in accordance with the Law on Business Organizations Nr.02/L-123;

Invoice means a document sent by a Waste Service Provider to a Customer and which itemises the services rendered and/or the goods delivered, the applicable Service Tariffs, their prices or applicable fees, any taxes and/or any other official charges,

levies and/or official emoluments levied on the provision of such services and/or goods and the total amount of money owned by the Customer. The Waste Service Provider may at his discretion, and/or as required by law and/or as it may be determined by the Regulator from time to time include additional information;

Medical Waste means any waste originating from a healthcare providing facility or activity and includes infectious, anatomical, sharp, chemical and pharmaceutical waste products;

Municipal Solid Waste means solid waste, not being hazardous waste or medical waste, from Household, Commercial, Institutional or Industrial sources, and processed wastes;

Official Holiday means any day recognised or designated by the governing authorities to be a non-working day in Kosovo;

Operating Costs means the regularly recurring costs such as administrative expenses, interest on debt and financial charges, salaries and wages, transport and fuel expenses, inventory and spare parts, and regular maintenance expenses necessary for managing and maintaining fixed assets in order to achieve the capacity and performance for which they were designed and constructed, and that are accounted during a term of one year or less;

Past Debt means all waste collection related debts of a Customer as evidenced by undisputed invoices issued by the Waste Collection Services Provider to that Customer on or before 31 December 2002 and which have not been paid in full as defined and regulated in the appropriate Past Debt Rule as issued by the Regulator;

Person means an individual, legal or public entity including a corporation, a partnership, a trust, an unincorporated organisation, a government or any agency or subdivision thereof;

Provision for uncollectible receivables means an estimated amount provided in the accounts for expected unpaid debts;

Publicly Owned Enterprise means an enterprise described in the Law on Public Enterprises adopted on 13 June 2008;

Regulator means the authority responsible for the economic regulation of Waste Service Providers, being The Water and Waste Regulatory Office (“WWRO”) created under UNMIK Regulation No. 2004/49 *On The Activities of Water, Wastewater and Waste Services Providers*, dated 26 November 2004 as amended with the *Law NO. 3/L-086* approved on 13 June 2008;

Residence means any house, dwelling, multi-unit residence, apartment building, house or any other building utilised for a residential purpose;

Residential Customer means any Customer classified by the Service Provider as a person using the Services at his residence or household;

Residual Value means the difference between the gross historical cost of a given fixed asset minus all accumulated depreciation that has been made on that asset until the end of its economically useful life;

Revenues from Operations means the total invoiced for providing Waste Services, calculated in accordance with this Rule;

Review Committee means the committee that may review the decisions of the Regulator pursuant to Section 34 of UNMIK Regulation No. 2004/49 *On the Activities of Water, Wastewater and Waste Services Providers*, dated 26 November 2004 as amended with the *Law NO. 3/L-086* approved on 13 June 2008;

Service Area means in relation to the Service Licence, the region or municipality within which the Waste Collection Service Provider may provide its services;

Service Contract means an agreement between a Service Provider and its Customers as referred to in Section 15 of the UNMIK Regulation No. 2004/49 “On the Activities of Water, Wastewater and Waste Services Providers”;

Service Licence means a licence issued by the Regulator pursuant to the Rule issued by the Regulator, authorising a publicly or socially owned enterprise to offer Waste Services to the public;

Service Standards means in relation to any service, the standards of service that apply to that service in accordance with UNMIK Regulation No. 2004/49 *On The Activities of Water, Wastewater and Waste Services Providers*, dated 26 November 2004 as amended with the *Law NO. 3/L-086* approved on 13 June 2008;

Service Tariff means any rate, charge or fee of a Waste Service Provider in relation to the provision of Waste Services to its Customers;

Service Tariffs Agreement means an agreement that can be entered into between the Regulator and the Waste Service Provider to amend, modify, alter and/or supplement any Service Tariff in accordance with the provisions of this Rule;

Service Tariffs Application means the information and documentation submitted by a Waste Service Provider for the purpose of receiving the approval of the Regulator to apply the proposed Service Tariffs for the rendering of Waste Services;

Service Tariffs Order means the written document issued by the Regulator listing all approved Service Tariffs by service type, location, and customer category;

Waste Collection Service Provider means any Person providing or intending to provide Waste Collection Services;

Waste Collection Services means collecting municipal solid waste and transporting it to a licensed disposal facility;

Waste Disposal Service Provider means any Person providing or intending to provide Waste Disposal Services;

Waste Disposal Services means the provision and management of licensed facilities to which Waste Collection Service Providers may deliver municipal solid waste for Disposal;

Waste Service Provider means any Person providing or intending to provide Waste Collection Services and/or Waste Disposal Services;

Waste Services means Waste Collection Services and/or Waste Disposal Services.

Section 5: Rules of Interpretation

In this Rule:

- (a) Any terms and expressions used in this Rule, not specifically defined herein and that might be in question, shall bear the meanings as defined in the legal acts referred to in this Rule and/or any other law applicable in Kosovo; and
- (b) References to a Rule shall be construed as meaning any Rule issued, modified, amended, supplemented, and/or replaced by the Regulator from time to time in accordance with the powers that have been granted to the Regulator; and
- (c) The singular includes the plural and vice versa; and
- (d) Words of one gender shall include any other gender; and
- (e) References to Parts, Chapters, Sections and Sub-sections are, unless otherwise expressly stated, references to Parts, Chapters, Sections and Sub-sections of this Rule.

Section 6: Applicability

All public enterprises currently providing Waste Services, are required to provide such Waste Services at the Service Tariffs established in accordance with the requirements of this Rule and submitted to and approved by the Regulator prior to use, unless any Service Provider is specifically exempted, in writing, by the Regulator.

PART II: GENERAL PRINCIPLES FOR TARIFF SETTING

Chapter 2: General Principles

Section 7: General Principles for Service Tariffs

- (a) No Discrimination: A Service Provider shall act in such a manner as shall not discriminate against any Customer or potential Customer on the basis of racial, ethnic, religious, sexual, political, cultural or economic characteristics or relative standards of living of such Customers in any given Service Area;

- (b) Balance: Tariffs shall be balanced between minimum standards of service, Service Providers` financially viability, and Customers` affordability;
- (c) Cost Recovery: Tariffs shall generate the financial resources needed by the Service Provider, operating under efficient conditions, to recover its operating and maintenance costs, reasonable overhead costs, and surplus required for the funding of approved capital expenditures;
- (d) User pay (Customer Equity): Each customer shall be charged for the full cost related to the rendering of Waste Services. The Customer shall make payment in full and when due. Failure to pay shall result in financial penalties;
- (e) Social Equity: The tariff structure shall reflect equity and fairness of service and pricing. Regulation 2004/49 sets out, at Section 10.3 (f), that it is "the responsibility of the Provisional Institutions of Self-Government, not Service Providers, to help low-income Customers pay their invoices;
- (f) Service Provider Performance: Service Providers shall not be compensated through the tariffs for the inefficient and ineffective performance of their duties.

Section 8: Applicability of Service Tariffs within the Service Area

- 8.1 Except where otherwise authorised by the Regulator, the Waste Collection Services Providers shall use the same Service Tariffs throughout their Service Area for the same type of Waste Collection Services.
- 8.2 A Waste Collection Service Provider may request in writing to the Regulator authorisation for use of different Service Tariffs within its Service Area, justifying the reasons for such a request. The Regulator shall respond in writing within twenty business days from the date of receipt of the request, either agreeing or refusing the request, and providing the reasons therefore.

Section 9: Categories of Customers for Service Tariff Setting

- 9.1 For the purpose of setting Service Tariffs for Waste Collection Services, the categories of Customer shall be limited to:
 - (a) Residential Customers;
 - (b) Commercial/Industrial Customers;
 - (c) Institutional Customers.
- 9.2 Each of the categories of Customer listed in Sub-section 9.1 above shall be subdivided as follows:

Service Tariffs for Residential Customers shall be divided into two sub-categories, as follows:

- (i) Residential Customers receiving services through the Communal Container method shall be invoiced a monthly flat rate reflecting the costs of the Waste Collection Services being rendered in this manner;
- (ii) Residential Customers receiving individualised door-to-door Waste Collection Services shall be invoiced a monthly flat rate reflecting the costs of the Waste Collection Services being rendered in this manner;

Service Tariffs for Commercial/Industrial Customers shall be divided into two (2) sub-categories, as follows:

- (i) Commercial Customers receiving services through the Communal Container method shall be invoiced a monthly flat rate reflecting the costs of the Waste Collection Services being rendered in this manner, and taking into account the estimated amount of municipal solid waste generated by the Commercial Customer receiving the service;
- (ii) Commercial Customers receiving individualised services through Containers specifically assigned to them or through any other form of Waste Collection Service specific to that Customer shall be invoiced on the basis of a monthly flat rate, or on the service frequency per month, or on the number of lifts per month or the weight and/or on the volume of municipal solid waste collected;

Service Tariffs for Institutional Customers shall be divided into two (2) sub-categories, namely;

- (i) Institutional Customers receiving service through the Communal Container method shall be invoiced a monthly flat rate reflective of the Waste Collection Services being rendered in this manner, taking into account the amount of municipal solid waste generated by the Institutional Customer receiving the services;
- (ii) Institutional Customers receiving individualised services through Containers specifically assigned to them or through any other form of Waste Collection Service specific to that Customer shall be invoiced on the basis of a monthly flat rate, or on the service frequency per month, or on the number of lifts per month or on the weight and/or the volume of municipal solid waste collected.

9.3 For the purpose of setting Service Tariffs for Waste Disposal Services there shall be a single category of Customer. The Tariff shall be calculated on the basis of the weight of municipal solid waste delivered to landfill sites, expressed in tonnes.

Chapter 3: Methods for the Computation of Service Tariffs

Section 10: Service Tariffs Computation Methods

- 10.1 The preferred method of tariff computation is the Long Run Marginal Cost (“LRMC”) method.
- 10.2 Until the Waste Service Providers are in a position to use the LRMC method, two alternative methods may be used. Once full cost recovery has been achieved,

tariffs will be calculated to provide a return on the regulatory capital base. Before full cost recovery has been achieved, the Cost Recovery Method will be used. This Rule covers only the Cost Recovery Method.

- 10.3 A Waste Services Provider who wishes to use another method to calculate the Service Tariffs or to modify any of the Service Tariff setting procedures specified in this Rule, shall write a letter to the Regulator explaining the request and the Regulator shall respond in writing within twenty (20) business days from the date of receipt of the said letter, either agreeing or refusing to do so, and providing the reasons.
- 10.4 The Regulator may reject the Cost Recovery Method or any other method and require the use of the LRMC method as soon as practicable.

Section 11: Service Tariffs Setting

Service Tariffs may be set either:

- (a) by the Regulator through review and approval of a Service Tariffs Application submitted by the Waste Services Provider in accordance with this Rule;
- (b) through a Service Tariffs Agreement that can be entered into between the Regulator and the Waste Services Provider in accordance with PART 6 below.

PART III: SERVICE TARIFFS CALCULATION BY THE COST RECOVERY METHOD

Chapter 4: Summary of Service Tariff Computation Procedure

Section 12: Steps for the Calculation of Service Tariffs for Waste Services

The calculations of Service Tariffs shall include the following steps:

- Step 1: Estimation of the projected quantity of municipal solid waste that will be collected from or received from each category of Customer (Chapter 2);
- Step 2: Estimation of the total projected annual costs to be incurred directly or indirectly in the provision of Waste Services (Chapter 3);
- Step 3: Estimation of the required revenues from operations (Chapter 4);
- Step 4: Definition of the structure of Service Tariffs to propose to the Regulator (Chapter 5);
- Step 5: Confirmation that estimated revenues from operations shall be adequate to cover the estimated costs of service provision (Chapter 6).

Chapter 5: Estimation of the Projected Quantity of Waste to be Processed

Section 13: Estimation of the Projected Quantity of Waste to be Processed

- 13.1 The Waste Services Providers shall estimate the annual quantity of waste to be processed on the basis of available data on waste collection and disposal registered in the previous years, but with a projection based on known trends, and available studies and surveys.
- 13.2 The Waste Collection Services Providers shall estimate the total quantity of waste for each Customer category.
- 13.3 Projections for each year shall be agreed between the Waste Collection Service Providers and the Waste Disposal Service Provider.

Chapter 6: Estimation of Total Projected Annual Costs of Service Provision

Section 14: Components of Cost of Service Provision

- 14.1 The Waste Services Provider shall use historical cost data obtained from accounting records produced, organised and maintained in accordance with Kosovo Accounting Standards, together with bids and tenders for similar supplies and services, to estimate annually:
 - (a) the expected operating costs ;
 - (b) the cost of debt service;
 - (c) a provision for uncollectible Accounts Receivable for one (1) year, and
 - (d) capital costs.
- 14.2 The total cost of providing waste services pursuant to Sub-section 14.1 above shall be calculated in accordance with the provisions of the remainder of this Chapter.

Section 15: Calculation of Operating Costs

- 15.1 The Waste Services Provider shall include without limitation the following items in the calculation of its operating costs:
 - (a) wages and social insurance contributions and related payroll costs;
 - (b) rents for any leased property or assets;
 - (c) energy and fuel;
 - (d) repairs and maintenance;
 - (e) materials related to the rendering of services;
 - (f) contracted services,
 - (g) insurance costs,
 - (h) Annual Licence Fees payable to the Regulator;

- (i) all charges directly related to the disposal of municipal solid waste at a Licensed Disposal Facility (for Waste Collection Services Providers);
 - (j) all fees for licences and permits required by other legal authorities in Kosovo for reasons related to the ability of the Waste Services Provider to render waste services; and
 - (k) other operating costs as applicable to the rendering of services or as required in accordance with the appendices to this Rule or as may be deemed from time to time by the Regulator as reasonably incurred operating costs.
- 15.2 Operating costs shall be based on actual data obtained from an Accrual Accounting System established in accordance with Kosovo Accounting Standards and International Financial Reporting Standards, as appropriate, and tenders for similar supplies, services and works. Where such a system is not yet in place, costs shall be estimated from existing accounts or from regional data.

Section 16: Costs to be Excluded from Computation of Operating Costs

- 16.1 For the purpose of setting Service Tariffs by the Cost Recovery method, depreciation costs shall not be included in the computation of operating costs.
- 16.2 All operating cost calculations shall exclude Value Added Tax as may be applicable in Kosovo except whenever any amount of such tax borne is legally not deductible from the amount of such tax that the Waste Services Provider is required to pay to the relevant tax administration authorities from time to time.
- 16.3 All operating cost calculations shall exclude any other indirect taxes that can legally be re-charged to the Customers or that are legally deductible against the amount of taxes that the Waste Services Provider is required to pay to the relevant tax administration authorities.
- 16.4 The value of fines and penalties due and paid by the Waste Services Provider for violation of laws, regulations, rules and orders issued and/or enforced by the Regulator and/or by any other public authority and/or central and/or local governmental body of Kosovo, shall be excluded from any operating cost calculations.
- 16.5 Personnel costs, chemicals, materials and supplies, utility bills or any other operating costs paid by a government or a donor as a subsidy or a grant, shall not be included in the Service Tariff calculation, but can be used as reference data for the cost estimation.
- 16.6 The Regulator may also determine that costs not acceptable for the purposes of profit taxes and/or any income tax in accordance with the tax laws in force in Kosovo shall also be excluded from the computation of operating costs.

Section 17: Costs of Debt Service

- 17.1 Whenever applicable, the Waste Services Provider shall include costs of funding and other financial costs related to debt service. These costs shall include both interest and repayments of principal.

Section 18: Uncollectible Accounts Receivable

- 18.1 For the purpose of setting Service Tariffs for any given year, the Waste Services Provider shall allow an amount calculated as a certain percentage of the Accounts Receivable balance directly related to the delivery of services for which the Waste Services Provider is licensed at the end of the fiscal year previous to the one for which the Service Tariffs are being set.
- 18.2 Each Service Provider, in relation to estimation of provision for bad debts, should set up policies and procedures, approved by the Service Providers' Boards and by Independent Auditors according to KAS or IFRS whichever is applicable. These policies and procedures shall demonstrate clearly the planned measures and actions that will be taken by the Service Provider to increase the collection rate, and shall be submitted to the Regulator with each Service Tariffs Application.
- 18.3 The amount of uncollectible accounts receivable declared as a cost of service shall be proposed by the Service Provider in the Service Tariff Application, on the basis of the above mentioned requirements. The Regulator based on his judgment reserves the right to make changes to the amount proposed by the Service Provider for tariff approval.
- 18.4 The percentage applicable pursuant to Sub-section 17.1 shall be the one specified in an appendix to this Rule or as determined by the Regulator from time to time.

Section 19: Capital Expenditure

- 19.1 Each Waste Services Provider, in planning its capital expenditure, shall distinguish between:
- (a) capital expenditure intended to repair or replace existing capital capacity, which shall be contained in a Capital Maintenance Plan; and
 - (b) capital expenditure intended to expand existing capital capacity, enhance the quality of service or serve more customers, which shall be contained in a Capital Improvement Plan.
- 19.2 Both plans defined in the previous Section shall be produced in accordance with the form set out in Appendix 3a to this Rule, shall cover a five year period, and shall be updated annually.
- 19.3 The total amount of capital expenditures permissible for use in the calculation of Service Tariffs shall be equivalent to the sum of the forecasted costs for the

projects listed in the Capital Maintenance Plan and the Capital Improvement Plan for the relevant year.

- 19.4 The value of any assets either paid for or donated by a donor shall not be included in the Service Tariffs computations but may be used as reference data for costs.
- 19.5 Any capital expenditures funded by donor grants will not be included in the Service Tariff calculation but may be used as reference data for costs.
- 19.6 The Regulator may require financial justification of capital expenditures, for example in the form of a discounted cash flow analysis, and at his discretion may approve or disapprove all or any items of capital expenditure for the purposes of Service Tariff computation

Section 20: Summary of Costs

- 20.1 The Waste Services Provider shall summarise costs related to the rendering of Waste Services in the manner provided for in Appendix 3a or 3b to this Rule, as appropriate.

Section 21: Unregulated Activities

- 21.1 A Service Provider shall not be permitted to subsidise any unregulated activity from the revenues derived from its regulated business.
- 21.2 If a Service Provider is able to allocate costs accurately to unregulated activities, these costs shall be excluded from the Summary described in Section 20 above; if not, the revenues from the unregulated activities shall be so deducted.

Section 22: Subsidies and Grants

- 22.1 All costs funded by subsidies and grants shall be excluded from the summary of costs described in Section 20.

Chapter 7: Estimate of Required Revenues from Operations

Section 23: Estimate of Required Revenues from Operations

- 23.1 The Waste Services Provider shall determine the required revenues from operations by adding operating costs plus costs for debt service plus allowance for uncollectible accounts receivable plus capital expenditures minus revenues of section 20 and 21.
- 23.2 Whenever possible the Waste Services Provider shall calculate the required revenues from operations for each category of Customer.

Chapter 8: Definition of the Structure of Service Tariffs to Propose to the Regulator

Section 24: Calculation of Estimated Revenues

- 24.1 The Waste Collection Services Provider shall estimate the revenues for each category of Customer as listed in Sub-section 9.1 above, as applicable on the basis of a monthly flat rate, and/or service frequency, and/or number of lifts per month and/or weight and/or volume of municipal solid waste expected to be collected or any combination thereof and shall document such estimate calculations and submit them as attachments to their Service Tariff Application.
- 24.2 Whenever possible, the Waste Collection Services Provider shall take into account the amount of municipal solid waste generated or transported or disposed of as may be found in historical records.
- 24.3 The Waste Disposal Services Provider shall estimate the revenues for the different groups of customers as listed in Sub-section 9.3 above on the basis of weight or volume expected to be disposed and shall document such estimate calculations and submit them as attachments to their Service Tariff Application.

Chapter 9: Confirmation that Estimated Revenues from Operations shall be Adequate to Cover the Estimated Costs of Service Provision

Section 25: Confirmation of the Adequacy of Proposed Revenues to Cover the Estimated Costs of Service Provision

- 25.1 The Waste Services Provider shall confirm whether the forecasted revenues from operations shall exceed or be equal to the total sum of the operating costs for the relevant year.

PART IV: REVIEW AND APPROVAL OF SERVICE TARIFFS APPLICATIONS

Chapter 10: Service Tariffs Application, Review and Approval by the Regulator

Section 26: Service Tariffs Application

- 26.1 The Waste Services Provider shall submit an application for Service Tariffs using the format provided in Appendix 1 to this Rule or as otherwise provided by the Regulator from time to time.
- 26.2 The Waste Services Provider shall submit a Service Tariffs Application approved by its Supervisory Board or its Board of Directors, as evidenced by a letter of transmittal signed by the relevant authority.

- 26.3 In the absence of a Service Tariffs Application, or failure of the Waste Services Provider to submit the requested data and information, the Regulator shall proceed to establish the Service Tariffs based on assuming costs and levels of performance similar to those of other Waste Services Providers in Kosovo, or by making any other assumptions that it considers reasonable.

Section 26: Regulator Review of the Service Tariffs Application

- 27.1 The Regulator shall confirm that the Service Tariffs Application complies with the terms of this Rule and appraise the Service Tariffs Application as set out in the remainder of this Section.
- 27.2 The Regulator shall appraise the Service Tariffs Application in the following steps:
- (a) Perform a review in terms of administrative completeness with regards to the required information and documents;
 - (b) Verify that the proposed Service Tariffs are compliant with the general principles listed in Section 7;
 - (c) Verify that the proposed Service Tariffs were calculated as per the requirements of this Rule; and
 - (d) Establish whether or not technical and financial performance targets have been met or are likely to be met within the deadlines as established or agreed to with the Regulator for the achievement of minimum Services Standards and key performance indicators specified in relevant Rules as issued by the Regulator;
- 27.3 In the approval of the request for Service Tariffs setting filed by the Waste Services Provider, the Regulator shall approve the Tariff application on the basis of a fair expectation of effectiveness. A basis may be the benchmarking process.

Section 28: Approval of Service Tariffs

- 28.1 On the basis of the criteria determined in Section 27, the Regulator shall approve, with or without modifications, the Service Tariffs Application in writing by issue of a Service Tariffs Order.
- 28.2 Once approved, Service Tariffs shall remain unchanged for one year, but adjustments shall be exceptionally considered if a Waste Services Provider requests an adjustment on the basis that its total costs of operation have increased materially above the level approved in the Service Tariffs Order, or if any extraordinary event occurs which, in the opinion of the Regulator, warrants a review by virtue of its impact on Tariffs.

PART V: SERVICE TARIFFS DURATION, ADJUSTMENTS AND REVIEW

Chapter 11: Duration of Service Tariffs

Section 29: Duration of Service Tariffs

- 29.1 The Regulator shall approve the Service Tariffs for a minimum duration of one (1) calendar year and a maximum of five (5) calendar years.
- 29.2 The Regulator shall notify in writing all Waste Collection Services Providers of their duty to file a Service Tariffs Application indicating the duration period of the Services Tariffs as determined.
- 29.3 The Service Tariffs to be set for the first period further to entry into force of this Rule shall be set for one calendar year.
- 29.4 If the tariffs are approved for more than one year, an annual percentage of increase calculated on the basis of inflation and efficiency adjustment will be approved.

Chapter 12: Service Tariffs Adjustments

Section 30: Request for Service Tariffs Adjustments

- 30.1 Given extraordinary circumstances which could not be reasonably anticipated upon submitting the Service Tariffs Application, a Waste Services Provider may submit at any time to the Regulator a written request for adjustment of the Service Tariffs before the end of the period for which the Service Tariffs were approved following the procedures determined by this Rule.
- 30.2 The Waste Services Provider shall provide technical and financial performance data that summarise performance, including the level of performance improvement targets agreed with the Regulator in the period covered by the Service Tariffs in force, and which provides a justification for the requested Service Tariffs adjustment in the form approved, amended and/or supplemented by the Regulator from time to time.
- 30.3 The Waste Services Provider shall provide a summary of the proposed adjusted Service Tariffs structure in a form specified by the Regulator in an appendix to this Rule or as otherwise determined by the Regulator from time to time.
- 30.4 The Waste Services Provider shall provide a clear rationale for the proposed Service Tariffs adjustment.

Section 31: Approval Procedures for Service Tariffs Adjustments

- 31.1 The Regulator shall confirm that the request for Service Tariffs Adjustment complies with this Rule and appraise and respond within forty-five (45) business days from the date at which the Regulator has received such a request in writing.

- 31.2 The Regulator shall appraise the request for Service Tariffs Adjustment as per the following steps:
- (a) Verify that the terms, conditions, and circumstances justifying any adjustments of Services Tariffs have been fulfilled;
 - (b) Verify that as a result of the proposed adjustments, the Service Tariffs are still compliant with the general principles provided in Section 7 above;
 - (c) Verify that the proposed adjustments to Services Tariffs were calculated as per the requirements of this Rule;
 - (d) Establish whether or not the performance improvement targets, including, without limitation, the performance related targets set for improvement of Service Standards have been met within the specified time limits as established or agreed by the Regulator from time to time;
- 31.3 Should the request for Service Tariffs Adjustment fail to meet the appraisal as set in this Rule, it shall be returned to the Waste Collection Services Provider along with the justification for non-approval.
- 31.4 On satisfying the appraisal criteria, the Regulator shall approve the Service Tariffs Application in writing by issue of a Service Tariffs Order.

Section 32: Refusal of Services Tariffs Adjustment

The Regulator may refuse to approve a request for adjustment of the Service Tariffs filed by the Waste Services Provider for any of the following reasons:

- (a) Failure of the Waste Services Provider applying for such an adjustment to Service Tariffs to provide the required information within the specified time limits;
- (b) Evaluating that the request is exorbitant relative to the waste services provided or intended to be provided;
- (c) Determination that the Waste Services Provider has failed in total or in part to meet the Service Standards established by the Regulator for Waste Services in Kosovo;
- (d) Failure of the Applicant to control its operating costs and/or any other costs or revenues relevant for the setting of Service Tariffs within the given limits deemed as reasonable or acceptable by the Regulator.

Chapter 13: Review of Service Tariffs

Section 33: Review of Multi-year Service Tariffs

- 33.1 When the Service Tariffs are set for a duration exceeding one (1) calendar year, the Regulator shall clarify in the Service Tariffs Order approving the Service

Tariffs, the criteria to be followed and the procedures for an annual review of the Service Tariffs.

- 33.2 The Regulator may at his discretion and for any reason decide to extend the period of validity of an existing tariff for up to 6 months from the original expiry date of the tariff provided that Service Providers are given 20 working days' notice of a decision to extend the existing tariff period and the reasons for the extension are fully explained.
- 33.3 The criteria to be followed by the Regulator for the review of the Service Tariffs approved for a period exceeding one (1) calendar year shall include, without limitation, the following:
- (a) Impacts of inflation in the first year of application of the approved Service Tariffs using a relevant official index of inflation as published by the competent public authorities of Kosovo;
 - (b) Potential impacts of estimated inflation for subsequent years using a relevant official index of inflation as published by the competent public authorities of Kosovo;
 - (c) Progress made by the Waste Services Provider in the achievement and enhancement of Service Standards;
 - (d) Other aspects of the technical, economic and financial performance of the Waste Services Provider such as the rehabilitation of assets used for rendering waste services, an increase in the number of customers served, major increase in the population in the Service Area, increase in the ratio of billing and collection of invoices and other relevant criteria, including those set forth in the Rule on Key Performance Indicators as issued by the Regulator; (examples are connected with Waste Collection Providers);
 - (e) Relevant costs for enhanced public health, environmental protection and spatial planning standards;
 - (f) Variation on the level of satisfaction of the Customers as surveyed by the Regulator or other entities conducting customers satisfaction surveys;
 - (g) Any other facts or indicators of an objective nature such as related performance of the Waste Services Provider as measured through benchmarking against Waste Services Providers located both inside and outside Kosovo and where size, degree of development, resources, number of Customers and other relevant features make their characteristics comparable with those shown by the Waste Services Provider.

PART VI: SERVICE TARIFFS AGREEMENTS

Chapter 14: Negotiating and Entering into a Service Tariff Agreement

Section 34: Service Tariffs Agreement

- 34.1 The Regulator may enter into a written agreement with any Waste Services Provider for the purpose of amending, altering and/or supplementing any Service Tariffs established under this Rule.
- 34.2 Service Tariffs Agreements may be entered into given any conditions precedent as determined by the Regulator and proposed to the Waste Services Provider, including, without limitation, the entering into of other binding agreements with the Waste Services Provider on:
- (a) Issue, renewal, extension, amendment, alteration and supplement to a Service Licence;
 - (b) Issue, renewal, extension, amendment, alteration and supplement to a Service Standard;
 - (c) Extension of the territorial scope of the Service Area for Waste Collection Providers;
 - (d) Expansion in the number of Customers served for Waste Collection Services Providers;
 - (e) Establishment, alteration, extension, modification and/or supplement to any customer-related provisions as outlined in the Rule on Customer Charter as issued, amended, modified and/or supplemented by the Regulator from time to time and that may impact upon any Service Tariff for Waste Collection Services Providers.
- 34.3 For the avoidance of doubt, a Waste Services Provider has the right but not the obligation to propose to the Regulator to enter into a Service Tariffs Agreement in accordance with the provisions of Section 35.

Section 35: Negotiation of a Service Tariffs Agreement

- 35.1 The Waste Services Provider wishing to enter into a Service Tariffs Agreement shall submit a written request to the Regulator requesting the opening of negotiations to enter into such an agreement justifying the reasons why it is deemed that both public interest and their legitimate rights and legal expectations would be best served if the Regulator would accept to enter into a Service Tariffs Agreement.
- 35.2 The Regulator shall respond in writing within five (5) business days from the date of receipt of the communication referred to in Sub-section 34.1, either agreeing to enter into negotiations for a Service Tariffs Agreement or refusing to do so.
- 35.3 If the Regulator decides to refuse to start negotiations to enter into a Service Tariffs Agreement, it shall provide its reasons for such a refusal.

- 35.4 If the Regulator agrees to start negotiations to enter into a Service Tariffs Agreement, it shall also grant to the Waste Services Provider a reasonable period of time, in any event of no less than thirty (30) business days, to allow the Waste Services Provider to submit to the Regulator a draft Service Tariffs Agreement.
- 35.5 Within ten (10) business days of receiving the draft Service Tariffs Agreement, the Regulator shall notify in writing the Waste Services Provider of the scheduling of a first meeting to start negotiation of such an agreement.
- 35.6 The Regulator may determine a maximum period of time for the conclusion of the negotiations to enter into a Service Tariffs Agreement that cannot be less than twenty (20) business days from the date of the first negotiation meeting scheduled in accordance with Sub-section 34.5.
- 35.7 For the avoidance of doubt, the Regulator has the right but not the obligation to enter into a Service Tariffs Agreement and, therefore, either his refusal to engage into negotiations to enter into such an agreement or any failure to successfully complete the said negotiations are deemed as contractual decisions and not as administrative acts or decisions subject to any administrative and/or judicial review.

Section 36: Entering into a Service Tariffs Agreement

- 36.1 In the case of a successful conclusion of the negotiations conducted in accordance with Section 35 above, the Regulator and the Waste Services Provider shall enter into the Service Tariffs Agreement in writing.
- 36.2 The Service Tariffs Agreement shall be signed in three versions in each of the following official languages in use in Kosovo:
- (a) Albanian;
 - (b) Serbian;
 - (c) English.
- 36.3 In case of any discrepancies between any of the versions in which the Service Tariffs Agreement is signed the Albanian language version shall prevail.
- 36.4 Except insofar as any fact, information and/or document could be deemed to contain any privileged or confidential information as the Regulator may justify in a written decision, the Service Tariffs Agreement, shall be available to the public by the means the Regulator may determine from time to time.
- 36.5 Any amendments, alterations, modifications or supplementary provisions pertaining to a Service Tariffs Agreements shall require the consent of both the Regulator and the signatory Waste Services Provider and must be entered into in writing, published and made public in accordance with the provisions of Section 40 below.

Chapter 15: Legal Nature and Enforceability of Service Tariffs Agreements

Section 37: Legal Nature and Enforceability of Service Tariffs Agreements

- 37.1 A Service Tariffs Agreement is deemed an administrative contract for all intended legal purposes. The Regulator is therefore obliged to negotiate, enter and execute such an agreement with strict observance of the general legal principles, rules and procedures governing the exercise of the prerogatives and duties of a public authority.
- 37.2 A Service Tariffs Agreement, as a bilateral legal act, is legally binding, enforceable and executable in accordance with its terms for both parties and can only be amended, extended, modified, supplemented, reviewed and/or terminated in light of its own provisions and the law applicable in Kosovo.

Section 38: Compliance with a Service Tariffs Agreement

The Waste Services Provider is obligated to respect and to comply with the Service Tariffs pursuant to the requirements of this Rule:

- (a) While the negotiations for entering into a Service Tariffs Agreement are pending until the date of entering into force of such agreement;
- (b) Immediately upon termination, cancellation, revocation and/or expiration of the Service Tariffs Agreement insofar as any rights and obligations contained in the Service Tariffs Agreement are not agreed upon to survive when it ceases to be in full force and effect for whatever legal cause; and
- (c) In all respects where the Service Tariffs Agreement does not otherwise stipulate and/or in all respects not specifically contemplated in such an agreement.

PART VII: PUBLICATION OF SERVICE TARIFFS

Chapter 16: Presentation and Publication of Service Tariffs

Section 39: Presentation of Service Tariffs

The Waste Services Provider shall summarise the Service Tariffs as approved, adjusted and/or reviewed by the Regulator from time to time.

Section 40: Publication and Dissemination of Service Tariffs

- 40.1 The Waste Collection Services Provider shall distribute to each Customer the Service Tariffs approved by the Regulator as applicable at the time that a

Customer completes a Service Contract or once per year as an attachment to an invoice for rendered waste collection services.

- 40.2 The Waste Services Provider shall publish the Service Tariffs approved by the Regulator in the following manner:
- (a) in a newspaper of wide circulation in the Service Area to which such Service Tariffs shall apply; and
 - (b) such publication shall be repeated at least once during the week following the one in which the first publication was made; and
- 40.3 The Waste Services Provider shall be solely responsible for the publication and public information of the Service Tariffs and for all related costs.
- 40.4 The Regulator may publish the tariffs additionally in any desired way.

PART VIII: ENFORCEMENT, PENALTIES AND APPEALS

Chapter 17: Enforcement of Service Tariffs Conditions

Section 41: Enforcement of Service Tariffs Conditions

The Regulator shall monitor compliance with the conditions of the Service Tariffs established in this Rule on the basis of:

- (a) reports sent by the Waste Services Provider as per Section 41 below;
- (b) inspections, surveys and reports sent by other entities and public authorities.

Chapter 18: Records and Reports on Service Tariffs Conditions

Section 42: Location and Availability of Records

The Waste Services Provider shall keep its business, financial and accounting records at its principal place of business in a safe and secure environment and they shall be available for examination during regular business hours by the means the Regulator may determine from time to time.

Section 43: Reports

- 43.1 The Waste Services Provider shall prepare and provide to the Regulator reports in a form, content, manner and within time limits prescribed by the Regulator from time to time.
- 43.2 The Waste Services Provider shall submit to the Regulator, no later than March 31 following the end of the previous calendar year, an annual report in a format prescribed by the Regulator from time to time.

- 43.3 The Waste Services Provider shall submit on a quarterly basis, no later than the 15th day of the month following the months of March, June, September, and December, un-audited financial reports in a format compatible with the generally accepted accounting standards and accounting rules in force in Kosovo.
- 43.4 Each Service Provider shall file to the Regulator not later than 1st of December a Business Plan for the following year previously approved by Board of Directors;
- 43.6 Each Service Provider shall file to the Regulator, no later than 31 March of the calendar year following the closing of the previous calendar year, a set of financial statements in the format compatible with Kosovo Accounting Standards or International Financial Reporting Standards, as applicable. These financial statements shall be delivered un-audited in the first instance, and audited statements shall be delivered by the following 30 June.

Section 44: Records and Reports Retention Period

All records and reports foreseen in Section 43 shall be organised and kept by the Waste Services Provider for at least five (5) calendar years from the date when they were first prepared or became due unless any other applicable law determines they should be kept for a longer time period, in which case that latter period shall apply.

Chapter 19: Offences and Penalties

Section 45: Offences, Penalties and Fines

- 45.1 Failure to comply with any of the Service Tariffs dispositions under this Rule and any charge to Customers of any amount not in accordance with the Service Tariffs approved by the Regulator shall constitute an offence which shall subject the defaulting Waste Services Provider to a penalty or fine levied in accordance with UNMIK Regulation No. 2004/49 *On the Activities of Water, Wastewater and Waste Services Providers*, dated 26 November 2004 as amended with the *Law NO. 3/L-086* approved on 13 June 2008.
- 45.2 Fines for the breach of any Service Tariffs provisions contained in this Rule shall also be calculated and levied in accordance with the procedures established by the Regulator from time to time.

Chapter 20: Appeals

Section 46: Appeals

- 46.1 The Waste Services Provider may appeal to the Review Committee established pursuant to the UNMIK Regulation No. 2004/49 *On the Activities of Water, Wastewater and Waste Services Providers*, dated 26 November 2004 as amended with the *Law NO. 3/L-086* approved on 13 June 2008 on any formal and

concrete decisions rendered by the Regulator on any relevant issues, including, without limitations on any of the:

- (a) issues, alterations, modifications, amendments, supplements, renewals or extensions of a Service Tariff;
 - (b) revocation, declaration or determination or cancellation of any Service Tariff determined by the Regulator under this Rule;
 - (c) establishment or enforcement of any Service Tariff condition foreseen under this Rule;
 - (d) levy of any fines for any breach of any Service Tariffs condition or any other provision of this Rule.
- 46.2 The Waste Services Provider may also appeal to a court in Kosovo competent in the matter, from any decision of the Review Committee taken on any concrete decisions as to the enforcement of this Rule in accordance with the UNMIK Regulation referred to in Sub-section 46.1.
- 46.3 Upon the issue of any concrete decision on the enforcement of this Rule, the Regulator shall inform the Waste Services Provider to which such an enforcement decision is addressed of its right to appeal pursuant to this Section.

PART IX: MISCELLANEOUS

Section 47: Languages

- 47.1 This Rule is issued and published in three versions written in languages use in Kosovo:
- (a) Albanian
 - (b) Serbian, and
 - (c) English
- 47.2 In the case of any discrepancy between any versions in which this Rule has been issued, the Albanian version shall prevail.

Section 48: Entry into Force

- 48.1 This Rule shall enter into force thirty (30) days after its issuance.

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Afrim Lajçi

Director

Water and Waste Regulatory Office

PART X: APPENDICES

APPENDIX 1

APPLICATION FORM FOR SERVICE TARIFFS FOR WASTE SERVICES

APPLICATION FOR SERVICE TARIFFS	
	Date: <input type="text"/>
Name of Waste Service Provider	<input type="text"/>
Service Licence Number	<input type="text"/>
Contact Address	<input type="text"/>
City	<input type="text"/>
Municipality	<input type="text"/>
Telephone Number	<input type="text"/> ; <input type="text"/>
Point-of-Contact	<input type="text"/>

APPENDIX 2

REQUIRED ATTACHMENTS FROM APPLICANTS FOR SERVICE TARIFF AND INSTRUCTIONS

Application Form for Service Tariffs for Solid Waste Collection Services and the respective calculation worksheets as presented in Appendices hereunder must be accompanied by the following documents:

1. Letter from the Supervisory Board signed and stamped to WWRO applying for a Service Tariff;
2. Current Solid Waste Collection Services Tariff Schedule and Fees applicable and date established;
3. A copy of the most recent set of financial statements certified by the KTA and, when available, by an independent auditor issued in or by reference to the year to which the financial statements to be attached refer and/or to the Service Tariffs Application the latest available financial audit report.

Original and one copy of the Tariff Application legibly completed and signed are required. One copy should be maintained in the Submitter's files.

Both the original and the required copies of the Tariff Application must be certified and signed by the Managing Director of the Service Provider.

Appendix 3a or 3b, as appropriate, should also be submitted in electronic form.

APPENDIX 3

REQUEST FOR TARIFF ADJUSTMENT

JUSTIFICATION FOR SERVICE TARIFF ADJUSTMENT

Complete the following statements in support of your rate request.

_____ (the "Service Provider") requests an adjustment in the existing rates charged. The information contained in this application is based upon a twelve-month Test Year ending _____ (mm/dd/yy). The Company had total operating revenues of EUR _____, served _____ customers, and collected _____ tons of solid waste during the Test Year.

The Company is requesting a(n) increase/decrease in revenues in the amount of EUR _____.

Total annual operating revenues, if the Company is granted the rate adjustment, will be EUR _____.

Service Provider is current on all property taxes – YES/ NO

Service Provider is current on all Value Added Tax Payments – YES/ NO

Service Provider is current on Utility Bills for electricity, district heating, and solid waste – YES/ NO

Please provide the reasons for your requested rate adjustment by completing the relevant lines below. If desired, the Company may also attach a written narrative regarding its reasons for the requested rate adjustment. Your narrative may also include efforts made by the utility to control costs and expenses and to mitigate the amount of rate adjustment.

Please explain changes in current operations compared to past operations, which necessitate the rate adjustment

Please describe adjustments made to amounts that are included in this application that are different than amounts recorded in your books/ledgers (pro forma adjustments)

Please explain significant factors influencing your revenues and expenses

Please discuss anticipated growth or decline in customers expected in the next two years, the amount of anticipated construction to serve those customers, and how financed; the type of customers served by the utility, e.g. residential, small retail businesses, large commercial, etc.

Please describe anticipated construction or attach copy of Asset Management Plan

Please explain any other factors influencing or affecting your tariff that require adjustment
