

**REGULATION FOR THE PROCEDURES OF ELECTRICITY
SURPLUSES SALES IN THE IRREGULATED MARKET FOR
THE PUBLIC COMPANY OF SUPPLY IN THE FREE MARKET**

General Provisions

Article 1 Legal Basis

This regulation is drafted implementing Law no. 43/2015 “*On Power Sector*”, as amended, article 19, letter “I”, article 62, point 2, article 69, letter “ë”, of Council of Minister Decision no. 244, dated 30.03.2016, “*On approving the conditions of setting public service obligation, that shall be implemented to the licensees on power sector which perform the electricity generation, transmission, distribution and electricity supply activities*” as amended.

Article 2 Object and purpose

1. The object of this regulation is to define the procedures of selling the electricity surpluses, from the Free Market Supplier company, as a licensed company in power sector, that exercises the electricity trading and electricity supply activity.
2. The purpose of this regulation, is:
 - a) to define the efficient and practical procedures for the “Free Market Supplier” company, for trading in irregulated market for the surpluses generated from the electricity priority producers, according to the conditions and procedures defined on this regulation;
 - b) ensure the electricity sale with higher prices;
 - c) promote the participation of the traders in electricity sale;
 - d) promote the electricity sale process;
 - e) ensure transparency as well as equal opportunities for all traders and participants in electricity sale procedures;
 - f) compatibility with the effective legislation.

Article 3 Principles

The procedures for the electricity sale of the surpluses generated from the priority producers, according to this regulation shall be realized according to the equality, competition, transparency and the confidentiality maintenance principles.

Article 4 Definitions

On this regulation, the terms used hereinbelow shall have the meaning as follows:

1. “**ERE**” shall mean “Energy Regulatory Entity” responsible for power and natural gas sectors, which operates according to this Law no. 43/2015, “*On power Sector*” and the Law no. 102/2015 on “*Natural Gas Sector*”, as amended as well as the effective by-legal acts.
2. “**Seller**” shall mean the Free Trade Supplier company, to whom it is set the public service obligation for the surpluses sale which are generated from the electricity priority producers, according to the legal definitions and licenses issued by Energy Regulator Authority.

3. **“Electricity sale purchases generated from the electricity priority producers”** shall mean the transfer in quantity and time of surpluses of electricity, from the Seller to electricity traders and/or energy exchanges, according to the payment and other conditions defined in the relevant sales contract and according to the procedures defined in this regulation.
4. **“Electricity trader”** shall be considered any legal person/national company that exercises the licensed activity for electricity trading, in our country according to the legislation in force, as well as any foreign company that exercises the activity in accordance with the provisions of Article 4 , points 3 and 4 of the Regulation on the procedures and deadlines for the granting, modification, renewal or removal of licenses in power sector, approved by the decision of the ERE Board no. 109/2016, amended.
5. **“Bid invitation”** is the official document that the seller addresses publicly to electricity traders for submitting the bids for the sale of electricity, drafted according to the form provided for in this regulation.
6. **“The network operation code”** is considered the Network Transmission Code, the Distribution Network Code as well as the Metering Code.
7. **“Bidder”** is considered the electricity commercial entity submitting a bid.
8. **“Bid”** shall be considered the whole information and the correspondence send electronically from the Bidder, which is administered by the Contracting Authority according to the effective regulation.
9. **“Bid calendar”** shall be considered the calendar ranking according to an approved rank, all the data on which there are organized the electricity sale processes. This “Bid Calendar” is updated and becomes transparent setting available to the public. Any amendment for the bid calendar is notified to all traders licensed by ERE and registered to electricity market within the terms provided and in conformity with the Market Rules.
10. **“The register of electricity traders”** shall be considered the register that is maintained from the seller for all the electricity trading entities, which includes the contacts of the responsible persons, to ensure the necessary data and information for the sale process of the surpluses generated from the electricity priority producer.
11. **“Commercial terms”** shall mean the complexity of those elements, that deal with the technical conditions, the quantity, prices for selling the surpluses generated from the electricity priority producers, the electricity delivery, the interconnection capacities, as well as other tariffs or payments that accompany the sale transaction.
12. **“Interconnection / transmission capacities”** are the capacities for the interconnection, which shall be ensured from the seller and / or the traders, to enable the sale of the surpluses generated from the electricity priority producers.

13. **“online IT Platform”** shall be considered the electronic platform for publishing the data of the Seller for the operation of the sale of surpluses generated from electricity priority producers.

Article 5

Responsibilities

The seller is responsible to define the power graph in MW (MegaWat) and that of electricity in MWh (MegaWat/hour), respectively (for the electricity capacity and quantity), as well as defining the time period and the delivery program of the surpluses generated from the electricity priority producers, which shall be calculated according to the Power Sector legislation, the Electricity Market Rules, as well as the codes for the operation of the network.

Article 6

The format for the collection, submission and review of the bids

1. For all interactions with electricity traders in the process of selling the surpluses generated by priority electricity producers, the Seller uses the online IT platform. The IT platform is in any case available online.
2. The seller manages the calendar of the bids and the register of electricity traders. All bids, time of submission and any bid details are maintained on the system for a period of 5 years.
3. Submission of bids from the electricity traders is performed online on the IT Platform as defined in point 1 of this article, and according to the notification for the day of submitting the bids. The opening and closing time of the procedure is published in the calendar of bids.
4. The review for the completion of the bids and their evaluation is performed automatically through the online system. The results of the auction procedures, which contain data for the electricity traders that have submitted bids, as well as all of the submitted bid information together with the selected bids are automatically submitted to ERE.
5. The seller through the online IT platform, shall publish the results/prices for the electricity sale unit in an automatic and collected approach, with the average prices, as well as the sold quantities for the realized procedures.

Article 7

The format of the bids

1. All of the bids submitted on online platform of the surpluses sale generated from the electricity priority producers for each selling process shall contain the information as follows:
 - i. Name of the bidder;
 - ii. bided capacity /the period in (MW);
 - iii. the price/unit/period in (euro/MWh).

2. All of the bids shall be unchanged and shall be submitted for the entire period, for which the Seller is requested to sell electricity. The capacity of the bids shall be between 1 MW and the total capacity ensured for the respective period.

3. Each sales process of the surpluses generated from the electricity priority producers, has a fixed period for delivery and a fixed capacity determined, for the entire period resulting from a maximum quantity that is covered by the sales process of electricity. When the estimated way of selling the surpluses is generated by the electricity priority producers is provided in different demands during this period, there are organized special procedures with fix delivery periods and fix capacities. This shall not violate the possibility of electricity traders to submit offers, which are less than the maximum capacity that has been ensured.

Article 8

The contract for the surplus sale, generated from the electricity priority producers

1. The sale of electricity surplus generated from priority producers from the seller according to the provision of Article 2 (1) of the regulation, which are connected as consequence of the procedures and criteria defined on this regulation.
2. The contracts for the sale of the surpluses generated from the electricity priority producers is drafted according to the legislation in force for the power sector, as well as the Civil Code of the Republic of Albania.

Article 9

Publication of information for the procedures of surpluses sale, generated from the electricity priority producers

1. For each sale procedure of surpluses generated by electricity priority producers, all the information specified in paragraph 2 below, is published in the bids calendar and is available to market participants from the online IT platform of the sellers.
2. Information for each electricity sale is published through the online IT platform and shall contain at least the data for:
 - i. the total amount of electricity in MWh that is required to be sold in each sale process of the surplus generated by electricity priority producers;
 - ii. the maximum capacity of electricity in MW that may be provided for any sale process of the surpluses generated from electricity priority producers;
 - iii. for the full time period of electricity delivery defined for the sale contractual relations between the seller and the trader that purchases electricity from the seller;
 - iv. ensuring the transmission capacities;
 - v. the requirements for qualification in the sale procedure of the surpluses generated from the electricity priority producers as provided on Article 10 of this regulation;
 - vi. criteria or the evaluation of the bids according to Article 11;
 - vii. payment conditions.

3. On the official website of the Seller, the information included in the bid calendar is published on Albanian and English languages. In case of inaccuracies and/or inconsistencies, the text of the information provided in the Albanian language is the original one.
4. Within one working day after the termination of the surpluses selling process, generated from the electricity priority producers, on the respective IT platform, the following document shall be published;
 - i. name of the bidders;
 - ii. provided capacities for each bid (MW);
 - iii. provided quantities for each bid (MWh);
 - iv. the price /unit for each **euro/MWh**;
 - v. total amount for each sale process of the surpluses generated from the electricity priority producers (euro);
 - vi. delivery profiles for each bid;
 - vii. delivery points for the surpluses generated from electricity priority producers for each bid;
 - viii. validity of all bids;
 - ix. the announcement of the winners and/or the non-winning companies.
5. The Seller shall publish on the official website a copy of all of the submitted complaints as well as the response for each complaint.

Article 10

Legal and administrative documentation

1. Any electricity trader that wishes to participate in the procedure of selling the surpluses generated from electricity priority producer shall submit to the Seller the necessary administrative documentation that evidences his legal and financial capabilities for the sale and trading of electricity from the competent institutions of the respective countries where it is registered, as follows:
 - a) Documentation that verifies the registration of the company in the relevant commercial / judicial registers of the state in which the company was established or registered;
 - b) The license for electricity trading issued by ERE for traders that are established or registered in the Republic of Albania, or the relevant states for those electricity traders that are established or registered outside the Republic of Albania;
 - c) The documentation issued by the competent institutions of the relevant state, which shall verify that:
 - i. the trader is not in bankruptcy process (document issued from the National Business Center);
 - ii. the trader or legal representatives of the company are not convicted for a criminal offence with final court decision;
 - iii. the trader or the legal representatives of the company are not convicted with final court decision for issues regarding electricity trading activity.
 - d) The documents presented in point (c) of this article shall be renewed by all registered participants within December of each year and shall be valid for the following year. In any case and at any time, the seller may request from the registered participants, the presentation within 30 days and

no more than 3 times a year, of each of the documents provided for in point (c) of this article, in order to verify the legal status of the subject. Failure to send the required documentation within the specified period shall result in the de-registration of the licensed participant from the Seller's register.

2. In the public announcement where traders are invited to submit documentation, these requirements shall be clearly mentioned that are qualification conditions.
3. Traders that do not fulfill the requirements set in paragraph 1 are considered ineligible to provide a bid.
4. Traders who express their interest for the first time to participate in the electricity sales procedures developed by the Seller but have not deposited the legal documentation according to paragraph 1 (c) of this article, shall submit the above-mentioned documentation through the online platform along with the expression of interest documents.
5. Other interested companies, which are registered to bid with the Seller in any sale procedure of the surpluses generated by the electricity priority producers in the future, shall submit only the bid form with the data specified in article 7, paragraph 1, of this regulation.
6. The seller shall not refuse the companies, which have submitted full documentation, even if it is partially submitted, to participate on the sale procedures of the surpluses generated from electricity priority producers.

Article 11

Criteria of the evaluation of the bids on electricity sale procedures of the surpluses generated from the electricity priority producers

1. The online IT platform for the sale of the surpluses generated by electricity priority producers, by Free Market Supplier, charged with the public service obligation defined in Article 2 of this regulation, automatically assesses the incoming bids, opening/closing time based only on the price per MWh that is bid. The IT platform shall select all offers to maximise the profit of the company charged with the public service obligation, Free Market Supplier S.A., for each sale process of surpluses generated by electricity priority producers.
2. The winners are those bids which are collected according to the result with the highest price per MWh that are submitted. In the case when the offers have the same quantity and price, the "*first-come-first serve*" principle shall be applied.

Article 12

Communication of the Contractor Authority with the participants on the procedures for the sale of the surpluses generated from electricity priority producers

1. Any Communication of the Seller with the participation companies regarding electricity sale procedures, shall be set only through the online IT platform, for the sale of the surpluses generated from electricity priority producers, after the registration of electricity traders.

2. All of the notifications due to or to amend the bidding calendar shall be in the written form and shall be published on the internet website of the Seller. It is prohibited any other form of communication or negotiation between the Seller and the electricity traders or between the electricity traders with each other.

Article 13

The procedure of selling the surpluses generated from electricity priority producers

1. The seller designs the strategy/methodology to realize the sale of the surpluses generated from the electricity priority producers, for all the electricity surplus that it provides to sell as the case may be throughout the entire calendar year. It should update the strategy/methodology for the way of realizing the sale of the surpluses generated by the electricity priority producers.
2. All of the amendments in the strategy/methodology for selling the surpluses generated by the electricity priority producers, which directly affect the quantity and frequency of the sale leading to an amendment in the sale process shall be included in the intraday bid calendar.
3. The strategy/methodology for the way of selling the surplus generated by electricity priority producers, aims to maximize the profit for the company charged with the public service obligation, Free Market Supplier, throughout the entire calendar year.
4. The strategy/methodology for selling the surpluses generated by the electricity priority producers and its submission to the bid calendar, shall contain:
 - i. the excess amount of electricity in MWh that will be sold;
 - ii. the sale period and date;
 - iii. the daily graph of electricity delivery;
 - iv. electricity delivery duration;
 - v. the date/hour of submitting the bids.
6. Any submission of the bid for the sale of the surplus generated by electricity priority producers by each bidder is carried out through the relevant online platform for the sale of electricity.
6. The assessment of the bids is held automatically according to Article 11 of this regulation. The rules and criteria for the assessment shall be published on the website of the Contracting Authority and IT platform.
7. All of the information related to the procedure for the sale of the surplus generated by the electricity priority producers together with the contract signed between the Seller and the winning bidder, is documented and maintained according to the rules and provisions provided by the legislation in force. This documentation is submitted to ERE according to the provisions of this regulation.

Article 14
**The repetition of the bidding
process**

1. The process shall be repeated in any case when less than three traders have submitted bids for the purchase of electricity surplus generated by priority producers.
2. The bid is disqualified in case when the review, assessment and comparison by the seller is not possible due to the format of the bid information and/or when the information requires clarification by the bidder. If the number of bids after possible disqualifications is below three, the process shall be repeated.
3. The repetition of the bidding process is announced to all electricity traders and published on the online platform, as well as on the seller's official website. The repetition of the process takes place after the publication of the notification for the failure of the process and shall be carried out no later than the next day of that day.

Article 15
Declaration for the conflict of interests

Before the beginning of the IT platform operation, each employee of the Seller that is charged with the set into operation and the progress of the IT platform, shall sign the declaration, according to which he/she shall express the absence of conflict of interest with the bidders, according to the legislation in force.

Article 16
**The notification of the winner and the sign of
the contract**

1. The notification of the winner, is issued to the bidder/bidders that has/have submitted winning bids by the termination of the bid evaluation process. The notification of the winner shall contain:
 - i. the name, address of the bidder;
 - ii. the supply period of the surpluses generated from electricity priority producers;
 - iii. the profile of the supply surpluses generated from electricity priority producers;
 - iv. the quantities of the surpluses generated from electricity priority producers, the price/unit and the amount of the contract.
2. After the declaration of the winner, the Seller that is announced winner shall sign the contract.

Article 17
Administrative procedures of the complaint

1. Any bidder may request to review the administrative procedure, which is followed for the sale of surpluses generated by electricity priority producers, when reasoning that the decision of the Seller is contrary to this regulation, following the below steps:
 - a) Within a period of 12 hours from the notification moment of the disqualified bidder, the bidder shall submit a written complaint through the online platform or by e-mail to the seller complaining about the violation.
 - b) in this complaint, the bidder shall present the name and address, the reference to the concrete procedure where he participated, the legal basis and the description of the alleged violation.
 - c) when receiving a complaint, the Seller is obliged to approve the decision to accept or not the complaint within a period of 24 hours from receiving the complaint.
 - d) when the complainant does not agree with the handling of the complaint by the Seller, then he addresses to ERE for settling the dispute within a period of 5 working days, in accordance with article 24 of the law no. 43/2015 "*On Power Sector*", as amended.
 - d) when the complainant does not agree with the handling of the complaint by ERE, he may contest ERE decision in the Administrative Court of First Instance.

Article 18
**Monitoring the sale of the surpluses generated from
the electricity priority producers**

1. All actions for selling the surpluses generated from the electricity priority producers shall be accurately documented. No sale of the surpluses generated from electricity priority producers shall be carried out without the accompanying documentation required from the law and these rules.
2. By the 5th of each month, the Seller shall submit at ERE a copy of the final summary report for review and assessment of the bids and a copy of all of the complaints submitted, if any, as well as the responses to the complaints for the previous month.
3. The seller is obliged to transparently submit at ERE all of the documentation for the sale of electricity, within ERE authority for monitoring.
4. ERE shall review the data submitted by the Seller and evaluates whether the bidding process in the preceding month complies with the criteria and provisions of this regulation.
5. In the event that ERE shall notify irregularities on the reports submitted according to point 2 of this articles, which may be charged to the Seller and/or the bidders, ERE may assign administrative measures based on Article 20 of Law no. 43/2015, "*For the Power Sector*", as amended.

Article 19
Payment and invoicing

1. The entire process of reconciling the surpluses amounts generated from electricity priority producers delivered between the parties, the corresponding financial values as well as the invoicing, shall be closed within 10 calendar days from the last date of electricity delivery. The payment terms that the Seller shall apply to electricity traders in the procedures for the sale of the surpluses generated by electricity priority producers shall be defined on the bid invitation.
2. The payment term set on the bid invitation shall be the same for all commercial companies invited to the procedure for the sale of surpluses generated from electricity priority producers, which shall be carried out by the person charged with the public service obligation, the Free Market Supplier.
3. The conditions, terms and deadlines provided in the invitation for the participation of the person charged with the public service obligation / Free Market Supplier shall be the same as with the contract signed with the winning company.

Article 20
Review

These rules are object of review, with ERE Board Decision, according to the Regulation “*On ERE organization, operation and procedures*”.

Article 21
Sanctions

For the violation of these Rules, when this is not a criminal offence, ERE acts according to article 107, of Law no. 43/2015, “*On Power Sector*”, as amended.

Article 22
The entry into force and validity

This regulation enters immediately into force and is published on the official gazette.