



REPUBLIKA E SHQIPËRISË
ENERGY REGULATOR AUTHORITY

BOARD

DECISION

No. 212, Dated 27.06.2023

ON

APPROVING THE “GUIDELINES FOR THE MARKET TEST OF TRANS ADRIATIC PIPELINE AG”

Based on Article 16 of Law no. 43/2015, "On Power Sector" as amended; articles 13, 15, point 1, letter "a"; 16, point 24 and article 108, of law no. 102/2015 "On Natural Gas Sector" as amended; provisions of the Final Joint Opinion of the Energy Regulators of Italy, Greece and Albania" (Final Joint Opinion), July 2013; Opinion 1/2013 of the Energy Community Secretariat, dated May 14, 2013, on TAP AG's Exemption from certain requirements under Directive 2009/73/EC ("FJO") by the Energy Regulator Authority of Albania", Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (Capacity Allocation Mechanism Network Code (CAM NC); Energy Regulator Authority (ERE) Board decision, no. 103, dated 26.06.2019; "On the approval of the transposition of regulation 2017/459, by decision no.2018 / 06 / PHGL-ENC, and the establishment of the network code for capacity allocation mechanisms in the gas transmission system" as well as articles 15 and 26 of the Regulation for ERE Organization, Operation and Procedures approved with ERE Board decision, no. 96, dated 17.06.2016; ERE Board on their meeting dated 27.6.2023, after reviewing the report with Protocol no. 1839/2 dated 26.06.2023 prepared by Natural Gas Directory, "On approving the "Guidelines for the market test of Trans Adriatic pipeline AG",

Observed that:

In view of:

- Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC;
- Directive 2019/692 the European Parliament and the Council of April 17, 2019 concerning common rules for the internal market in natural gas;
- COMMISSION REGULATION (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013;
- Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity;

- The decision of the European Commission of May 16, 2013, which contains "Exclusion of the Trans Adriatic Gas Pipeline from third-party access, tariff regulation and unbundling of ownership defined in articles 9, 32, 41(6), 41(8), 41(10) of Directive 2009/73/EC;
- Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005;
- Paragraph 4.1.7 of the Joint Opinion, where TAP AG must regularly (at least every two years) conduct a Market Test in order to offer all interested parties Expansion Capacity up to the total Capacity of the pipeline;
- The Market Test, referred to in the previous paragraph, must be carried out in accordance with the Guidelines jointly approved by the Albanian (ERE), Greek (RAE) and Italian (ARERA) Energy Regulator Authorities.
- On 29 August 2011 and on 31 August 2011, TAP AG submitted to the Italian Ministry of Economic Development and to the Regulator Authority for Energy of Greece (hereinafter, "RAE") respectively, an "Exemption Application for Trans Adriatic Pipeline" (hereinafter, "Exemption Application"), as foreseen by Article 36 of the Gas Directive 2009/73/EC. On 1 September 2011, TAP AG submitted the Exemption Application to the Energy Regulator Authority (hereinafter, "ERE") of Albania, in accordance with Article 22 of the Gas Directive 2005/54/EC.
- In June 2013 the Italian Ministry, RAE and ERE took the decision on the exemption of Trans Adriatic Pipeline based on certain requirements according to Directive 2009/73/EC, adopting the Final Joint Opinion, a document jointly written by ARERA, ERE and RAE (hereafter: "the Authorities") and amended to comply with the Commission Decision [C(2013)2949 final] dated 16th of May 2013 and to take note of the Opinion 1/2013 of the Energy Community Secretariat dated 14th of May 2013.
- On March 16th 2017 the new EU Regulation 459/2017 "establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013" was adopted. The EU Regulation 2017/459 (hereafter: CAM NC) establishes a Network Code setting up capacity allocation mechanisms in gas transmission systems for both existing and incremental capacity
- On June 16th, 2023, in accordance with Paragraph 4.1.7 of the Final Joint Opinion, TAP AG submitted to the Authorities the "Guidelines for the 2023 Market Test of Trans Adriatic Pipeline" (hereafter: "2023 Guidelines").

Also taking into account:

- The proposed 2023 Guidelines, as summarized above, are in accordance with the principles stated in the Final Joint Opinion, in CAM NC, in all national legislations and do not present unnecessary barriers in the process envisaged for the production of incremental capacities.
- The process is designed in such a way as to facilitate cooperation with adjacent TSOs, with the aim of ensuring a coordinated development of the network, avoiding possible inconsistencies in the construction of cross-border capacities; The 2023 Guidelines take into account the need to ensure proper coordination with the still open 2021 Market Test.
- TSOs are still evaluating the possibility of concluding with a second Binding Bidding Phase that may take place between the end of 2023 and the beginning of 2024 for the Market Test.

The 2023 guidelines provide for timing coordination so that the mandatory allocation of capacity takes place after the second Binding phase of the previous procedure launched in 2021 is completed.

- The document dated June 16, 2023 that TAP AG submitted "2023 Market Test Guidelines" (Annex B of this provision) regarding the examination of possible new offers of incremental capacity to the Authorities for approval.
- The Authorities, after analyzing the "2023 Market Test Guidelines", which basically includes the same principles followed for the 2021 Market Test, jointly drafted a document containing the approval decision and the relevant reasons (Annex A) of this the decision;
- The joint document is also subject to approval by the Regulators of Italy and Greece, namely ARERA and RAE.
- The 2023 market test procedure proposed by TAP AG is in accordance with the principles presented in the Final Joint Opinion and with European Directives and Regulations for the allocation of existing and incremental capacity.
- The need to approve the joint document approving the "Guidelines for the 2023 Market Test " (Annex A).
- The need for the annexes of this provision (Annex A and Annex B) to be kept confidential at least until the start of the 2023 Market Test as the approved document "Guidelines for the 2023 Market Test of Trans Adriatic Pipeline" shall be published by TAP AG in its website on the Market Test start date.

For all of the above mentioned, ERE Board

Decided:

1. To approve the "Guidelines for the 2023 market test of Trans Adriatic pipeline AG" the document submitted by TAP AG on June 16, 2023 (Annex B), as well as expressed in the joint decision with the Regulators of Italy and Greece, namely ARERA and RAE (Annex A).
2. To submit a copy of this decision to the Regulator Authorities ARERA and RAE, TAP AG; as well as the Ministry of Infrastructure and Energy;
3. To publish this decision on ERE website, www.erealb@ere.gov.al (the decision without annexes A and B).
4. To publish annexes A and B on ERE website as TAP AG has published the Guidelines for the 2023 market test of Trans Adriatic pipeline AG on its website.
5. The version in the original language (English) takes precedence in case of disagreement between the parties in the interpretation of the Albanian version.

6. The Natural Gas Directory shall inform TAP AG, the Energy Community Secretariat, Ministry of Infrastructure and Energy, the Italian Regulator ARERA and the Greek Regulator RAE, about ERE Board decision.

This decision enters immediately into force.

Any party involved in this procedure may request from ERE, within 7 calendar days from the date of the decision, to review the board decision if it has provided new evidence that could lead the board to obtain a decision different from the previous one or for material errors ascertained. This decision can be appealed in the Administrative Court of Tirana, within 45 calendar days from the day of publication in the Official Gazette.

This decision shall be published on the Official Gazette.

ERE CHAIRMAN

Petrit AHMETI