



REPUBLIKA E SHQIPËRIË

## ENERGY REGULATORY AUTHORITY

### BOARD

### DECISION

**No. 171, Dated 04.11.2020**

### **“ON CALCULATING THE REGULATORY FEES FOR 2020”.**

Based on article 17, point 4, of Law no. 43/2015 "On Power Sector", as amended, article 14 of Law no. 102/2015 “On Natural Gas Sector” as amended”; *"Regulation on defining the approval of the regulatory fees"* as amended; article 15 of the *"Regulation for ERE Organization, Operation and Procedures"*, approved with ERE Board Decision no. 96, dated 17.06.2016, the Board of the Energy Regulatory Authority (ERE), on their 04.11.2020 meeting , after reviewing the report prepared by Tariff and Prices Directory with protocol no.116 / 10,dated 02.11.2020, on calculating the regulatory fees for 2020,

#### **Observed that:**

- ERE defines and approves the regulatory fee paid by licensees in power and natural gas sectors.
- Referring to the database, there are 304 licensed by ERE (until the end of 2019), who are subject to regulatory fees.
- Basic information for the calculation of regulatory fees for 2020 was obtained in accordance with provision 5.4 of the "Regulation on defining the approval of the regulatory fees" as amended, which stipulates that licensees, pursuant to article 46 of Law 43/2015 "On Power Sector ”and the terms of the license are obliged to submit at ERE within 31 January of the next year complete financial statements for the previous exercising year and then until on 30 June audited copies of the financial statements for the previous period from which results the information on the incomes realized from the licensed activity that shall be used in calculating the regulatory fees.
- Based on the above with official letter protocol no. 145 to 199, dated 27.01.2020, official letter protocol no. 204 to 244, dated 28.01.2020, official letter protocol no. 247 to 286, dated 28.01.2020 and official letter no. 293 to 368, dated 29.01.2020, all licensees in the power and natural gas sector were informed regarding the legal obligation that they have to submit at ERE, within 31 January 2019, the financial statements for 2019 and above further submission of these

statements in accordance with the applicable law and international accounting standards, together with audit reports within 30 June 2020.

- Only a part of the licensees responded to this request by submitting at ERE the financial statements for 2019.
- Despite the repeated request for information, there are still entities that have not submitted audited financial statements in compliance with the provisions of the aforementioned legislation.
- Pursuant to point 6.4 of the *"Regulation on defining the approval of the regulatory fees"* as amended, for licensees who have not submitted financial statements for 2019, information on the calculation of regulatory fees has been obtained from official publications (NBC). For companies licensed in electricity production, which have not submitted at ERE the financial statements of 2019 and have not published them in the NBC, for the calculation of regulatory fees in 2020 incomes are calculated based on the quantities produced according to the reports of OSHEE Company, according to the price of about 8.4582 ALL / kWh approved with ERE Board Decision no. 8, dated 17.01.2019.
- For licensees who have not started the licensed activity based on the reports of OSHEE Company and TSO Company it has been considered the imposition of a fixed payment of 100,000 (ALL), pursuant to the provisions of the Regulation.
- For licensees who have not submitted at ERE the financial statements of 2019 and who do not have official published data which would enable the calculation of the regulatory fee, for 2020 a regulatory fee of 2019 shall be set, reserving the right for a review if the calculation of this fee shall result different based on the data of the certified financial statements of 2019.
- It results that many of the companies that have conducted two or more licensed activities have not submitted a division of the accounts according to the activities, as requested by article 35, point 1 of Law 43/2015 "On Power Sector" as amended and point 3 of article 30 of Law 102/2015 "On Natural Gas Sector" as amended.
- From the analysis of the data of financial statements and reports of OSHEE Company, for electricity producers, it is noticed that the declared incomes for 2019 do not match the incomes resulting from the amount of electricity sold based on the annual electricity purchase price of about 8.4582 (ALL) / kWh, approved with ERE Board Decision no. 8, dated 17.01.2019.
- In some cases it is noticed that the declared incomes for 2018 (which served for the calculation of regulatory fees of 2019) do not match the declarations in the financial statements of 2019. This phenomenon, as evidenced before, it is regulated by setting the regulatory fees for the following period with the purpose to record the invoices of electricity sale of OSHEE for December 2019, in January 2020. As a result, the generated incomes are recorded in the balance sheet of 2020 which serves for the calculation of regulatory fees of 2021 and following.

- During the verification of the financial statements submitted by the licensees in response to ERE official letters, it is found that many of the licensees have once more submitted uncertified financial statements according to the provisions of article 46, point 1 of Law 43/2015 "On Power Sector" as amended and article 30, point 1 of Law 102/2015 "On Natural Gas Sector".

- Article 46, point 1 of Law 43/2015 "On Power Sector" as amended and article 30, point 1 of Law 102/2015 "On Natural Gas Sector" imposes the obligation to submit audited financial statements to all licensee as quoted below:

➤.. "... Licensees operating in the electricity market are also required to submit an audited copy of their financial statements within June 30 of the next year."

➤In order to evaluate the calculation of regulatory fees for those companies that have not submitted at ERE the audited financial statements or divided according to the activities, it is used as a reference the data reported by the Free Market Supplier/ FTL Company and TSO Company on the amount of electricity produced as well as data on electricity transactions during 2019. For all the above mentioned, ERE board,

**Decided:**

1. To approve the regulatory fees for licensees in the power and natural gas sectors, for 2020 according to the table, attached to the decision.
2. Differences resulting from the Financial Statements certified for 2019, shall be considered in the calculation of regulatory fees for the following period.
3. The licensees subject to this decision (according to the attached table) shall submit the regulatory fees at ERE, no later than 30 days from the publication in the Official Gazette of this Decision, otherwise, ERE based on Article 107 of Law no. 43 / 2015 "On Power Sector", as amended imposes a penalty up to 3 percent of the incomes of the previous year of the licensee and has the right to apply an overdue payment according to the value of the regulatory fee, in the amount of 0.2% to daily turnover for each day of delay in its payment.
4. For licensees, for whom the regulatory fee for the current year has been suspended, if the legal circumstances that led to the suspension change, this decision shall be subject to review regarding the calculation of the regulatory fees that shall result from it.
5. Economy and Finance Directory shall inform the interested parties about ERE Board Decision.

This decision enters immediately into force.

This decision may be reviewed within 7 calendar days at ERE and may be complained on Tirana Administrative Court, within 30 calendar days for the licensees in the power sector or within 45 calendar days for the licensees in the natural gas sector from the publication in the Official Gazette.

This decision is published at the Official Gazette.

**ERE CHAIRMAN**

**Petrit AHMETI**